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POLICY RECOMMENDATIONS FOR PRIVATE ADOPTION PRACTICES AND PROCEDURES IN ALBERTA

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POLICY RECOMMENDATIONS FOR PRIVATE ADOPTION PRACTICES AND PROCEDURES IN ALBERTA

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EXECUTIVE SUMMARY

Purpose of the Study

The overall purpose of this study was to determine the extent to which Alberta Social Services and Community Health should be involved in the adoption of children who are not the subject of a permanent guardianship order or agreement whereby the government becomes the children's guardian.

The study collected specific information on the process of private adoption by three methods including: (1) a comprehensive review of the literature; (2) interviews with experts in the area of adoption across Canada; and (3) presentations from residents of Alberta.

Conclusions

The conclusions of this study were viewed within the context of Alberta society and its predominant values. The first three matters to be considered in making decisions pursuant to the Child Welfare Act of Alberta (July 1985) are relevant principles for guiding the formation of conclusions and recommendations. These principles are as follows:

(1) the family is the basic unit of society and its well-being should be supported and preserved;

(2) the interests of the child should be recognized and protected; and

(3) the family has the right to the least invasion of its privacy and interference with its freedom, that is compatible with its own

interest, the interest of the individual family members and society.

In light of these principles and the specific information identified in the report, the conclusions relevant to the desirable characteristics of the overall process of private adoption, measures to protect the rights of individuals, and characteristics of services were determined and are listed below.

Characteristics of the Adoption Process

- There should be an alternative to a total government adoption system.
- Third-party intermediary adoption should not be permitted.
- The private adoption system should be non-profit.
- Government must play an important role which would involve setting standards, licensing, and monitoring the private adoption system.
- Adoption is a life-long process; therefore, information relevant to adoption should be protected permanently by the government.
- Adoption by step-parent and relatives should be less intrusive than adoption by non-relatives.
- All non-relative private adoptions should be administered by a consistent, formalized process.
- The long-term effects of open adoption are not yet apparent. Therefore, further investigation of open adoption is required.

Measures to Protect the Rights of Individuals

- The best interests of the child are paramount and must be protected.
- The relinquishing mother should have access to unbiased counselling to assist her in deciding whether to give a child up for adoption.
- The relinquishing mother should have the right to be involved in the choice of the adopting parent (through non-identifying information). For example, this could include choices relevant to social, cultural and religious heritage.
- The putative father should have the right to guardianship if he is actively involved with the mother and child.
- The adopting parent should have access to information about the child which would be relevant to the child's healthy development.
- The adopting parent should have the right to confidentiality, with respect to the release of identifying information, until the adoptive child reaches the age of majority.

Characteristics of Service

- A high quality, objective, home assessment conducted before placement is very important in protecting the interests of the child.
- There should be mandatory pre-adoption counselling for both the relinquishing mother and the adopting parent.

- Post-adoption counselling should be offered to those who need such a service.

Recommended Private Adoption System

In light of the findings of this study, a system for private adoption is proposed which depends upon private agencies for most of the direct service. In addition, it is proposed that the system be substantially controlled and monitored by government. Government control would be accomplished primarily by licensing and regulating agencies, and by screening the adoption applicants at the beginning of the process prior to their inclusion on an adoption agency waiting list. After the initial screening of applicants, the government would play only a monitoring role. This system maximizes government control over who adopts, and minimizes the level of government invasion of the privacy of individuals and families involved in the private adoption process.

Specific recommendations regarding the private adoption process, costs, pre-placement issues, post-placement issues, and post-adoption issues are listed below. These recommendations operationalize the model for non-relative private adoption (Section 6.0, Figure 6.1) and are based on the findings of this study in conjunction with the principles and desirable characteristics of the private adoption process.

Specific Recommendations: Adoption Process

1. Alberta Social Services and Community Health should be directly responsible for: (1) setting standards for the private adoption

process; (2) licensing private agencies; (3) setting the level of staff qualifications required for licensing; and (4) setting and monitoring the fee structure.

2. Legal fees should also be subject to regulation.
3. Potential non-profit adoption agencies would apply to Alberta Social Services and Community Health for licensing.
4. The private adoption agencies outlined in the recommendations above would be established only on the basis of a non-profit corporate charter.
5. Private agencies would be permitted to advertise services but not specific children.
6. The suggested minimum qualifications for an adoption agency worker would be an M.S.W. with three years of related experience.
7. Alberta Social Services and Community Health must provide equal access to private adoption services for individuals living in rural communities, in order to prevent differential levels of service (i.e., provide counselling and liaise with private agencies).
8. Alberta Social Services and Community Health should be responsible for completing a home assessment in non-relative adoptions. The home assessment should be valid for a period of twenty-four months.
9. The home assessment should be completed within ninety days of a private agency notifying Alberta Social Services and Community Health of an application.

10. Step-parent adoptions should be considered primarily a legal matter since the child is living with a biological parent. However, a director must be notified of the intent to adopt.

11. Step-parent applicants should be screened through the Child Abuse Register and the Child Welfare Information System. A home assessment would be recommended only in cases where the applicant has had prior contact with Alberta Social Services and Community Health in a child welfare matter and a director would have the right to express his concerns in court (see Note 10 of text).

12. A home assessment by Alberta Social Services and Community Health should be required for relative adoptions.

13. The rights of the putative father must be considered in step-parent adoptions, especially if there is a prior custody agreement or some degree of involvement with the mother, or the mother and child.

14. Both interprovincial and international adoptions should involve notifying a director of Alberta Social Services and Community Health. The director would then be responsible for notifying the Federal Adoption Desk in Ottawa in order to ensure that the legislation of the governments involved in the adoption are met.

Specific Recommendations: Adoption Costs

15. All direct services obtained by the adopting parents from the private adoption agency should be paid for on a fee-for-service

basis. This would include (1) legal services (i.e., consent, submission of petition, and court costs); (2) counselling; (3) supervision of placement until finalization of order; and (4) costs for being maintained on the agency waiting list.

16. Pre-placement counselling to the relinquishing parents should be paid for by Alberta Social Services and Community Health.

17. The home assessment should be conducted and paid for by Alberta Social Services and Community Health.

18. Alberta Social Services and Community Health should consider establishing a mechanism which would minimize discrimination on the basis of financial ability.

Specific Recommendations: Pre-Placement

19. Alberta Social Services and Community Health should increase its current level of funding for unwed mothers' support programs and improve the quality of service delivery.

20. Pre-placement counselling of the relinquishing parent should be mandatory.

21. Normally, pre-placement counselling for the relinquishing parent should be conducted by a private adoption agency. However, in areas where such a resource is not accessible, Alberta Social Services and Community Health should provide pre-placement counselling services even though the mother is proceeding via private placement.

22. During pre-placement counselling of the relinquishing mother, a check should be made for the involvement level of the putative father. Consideration of the rights of the putative father should not hold up the adoption process.

23. The private adoption agency should be responsible for maintaining a waiting list and matching potential adopting parents with the child being relinquished.

24. The final decision regarding the choice of potential adopting parents should involve consultation with the relinquishing parent. This would involve the sharing of non-identifying information as well as consideration for the relinquishing parent's wishes pertaining to issues such as social, cultural, and religious heritage.

25. Identifying information can pass between the relinquishing and adopting parents if both parties involved have consented.

26. The private agency should be responsible for notifying a director of Alberta Social Services and Community Health of the intent to match particular adopting parents with a particular child.

27. A pre-placement home assessment must be conducted by an adoption specialist (i.e., qualified M.S.W. with experience in adoption) from Alberta Social Services and Community Health.

28. After the consent becomes valid, guardianship of the child should be vested in the private agency until the adoption order is finalized.

29. The private agency must have temporary placement/shelter resources available (i.e., foster care).

30. A signed consent should be obtained from the relinquishing mother by legal counsel representing the private adoption agency. Consent should also be obtained from the putative father unless the court deems otherwise.

31. Pre-placement counselling should be mandatory for the adopting parents and would be administered immediately prior to placement of the child by a qualified person representing the private agency.

32. Consent should not become valid until three days after the birth of the child.

Specific Recommendations: Post-Placement

33. A child may be placed in the adoptive home when the consent becomes valid.

34. There should be a ten-day waiting period after the consent becomes effective, during which birth parents can revoke consent. After this time, the birth parents' rights should be terminated.

35. The adoption petition should be submitted within six months after placement of the child.

36. The private adoption agency should have the responsibility for supervising the placement during the period prior to finalization

of the court order. A home visit every sixty days, or as required, is recommended.

37. The adoption petition should be heard in court within six months after submission of the petition.

38. If a placement breakdown occurs before finalization of the adoption order, the birth parent should be notified and given the opportunity to reapply for custody unless the relinquishing parent has waived this right.

39. A reasonable effort should be made to notify the birth parent that an adoption order has been granted.

Specific Recommendations: Post-Adoption

40. The private adoption agency should be responsible for providing post-adoption counselling if requested by relinquishing parents or the adopting parents.

41. Alberta Social Services and Community Health should be responsible for maintaining permanent records of the adoption.

42. Alberta Social Services and Community Health should encourage the inclusion and up-dating of medical histories of the relinquishing parents and relatives of the adoptee. This information should be passed on to the adopting parents.

43. Alberta Social Services and Community Health should maintain a passive adoption registry.

44. After the adoptee reaches the age of majority, consent of the adoptive parent should not be required if the adoptee wishes to make an application for disclosure.

PREFACE

This report was made possible by the contributions of many individuals. First, Dr. Neil Webber, Minister of Alberta Social Services and Community Health, should be commended for his responsiveness to the concerns expressed by Albertans about the provisions in the Child Welfare Act which proposed to lessen the role of Alberta Social Services and Community Health in private adoptions. In response to these concerns, the proclaimed Act was amended to retain the role of Alberta Social Services and Community Health, and Dr. Webber commissioned a review of private adoption by the Provincial Advisory Committee on the Family.

The Provincial Advisory Committee on the Family struck a special private adoption subcommittee chaired by Susan Friesen of Three Hills. This subcommittee, which also included Hazel Smith of Calgary and Rose-Marie McCarthy of Edmonton, formed a steering committee with two representatives from Alberta Social Services and Community Health, Celeste Grad, Project Manager, and Bernd Walter, Legislative Planner. This steering committee advised and directed the research consultants from the Faculty of Social Welfare, The University of Calgary, who prepared this report. Input from the steering committee, in conjunction with the data collected by the consultants aided in the development of a model for private adoptions which, we hope, will be particularly suited to the needs and values of Albertans.

All members of the committee should be commended for their contribution to the project. In many ways, this project represents an ideal process for policy development. It directly involved residents of Alberta in general, government staff, and university researchers in the development and refinement of the private adoption process.

In addition to those who were directly involved in the project, several others made this report possible. We would like to thank the concerned Albertans who made verbal presentations or submitted written documents to the Consultation Committee. We would also like to thank the adoption experts throughout Canada who were willing to share their experience and knowledge on private adoption. Further, we would like to thank our support staff, including Marj Andrukow, Barb Burrows, Joanne Paetsch, and Jean Wallace for their diligent work in the preparation of this report.

The report consists of six major sections. Section 1.0 is an introduction to the study. It includes a review of the private adoption process, defines the key concepts of the study, and gives an overview of the history and extent of private adoption in Alberta.

Section 2.0 presents the methodology employed in collecting and processing the data. This includes discussion of the samples and procedures used to gather data for the study.

Section 3.0 is a review of the literature pertaining to private adoption. Academic and government literature was examined in order to determine the issues associated with the private adoption process.

Section 4.0 contains an analysis of the information from the interviews with community, government and academic experts in the field of adoption, with respect to the issues associated with the private adoption process.

Section 5.0 focuses on the data obtained through the community consultations. These consultations were conducted as open community forums and were structured around the issues and options identified in earlier stages of the report.

Section 6.0 contains an analysis of the key findings relevant to the process of private adoption. In addition, the characteristics of an ideal process are discussed, and a recommended model is presented.

J.P.H.
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TABLE OF CONTENTS

Executive Summary (ii)

Preface (xii)

1.0 Introduction 1

1.1 Purpose of the Study 1

1.1.1 Process of Adoption of Children not Subject to Government Guardianship 2
1.1.2 The Child 3
1.1.3 The Relinquishing Parents 4
1.1.4 The Adopting Parents 5

1.2 Definition of Key Concepts 5

1.3 History of Adoption in Alberta 8

1.3.1 The Proposed New Child Welfare Act (Bill 35, 1984) 10
1.3.2 The Proclaimed Child Welfare Act (July 1985) 11

1.4 Extent of Private Adoption in Alberta 12

1.5 Extent of Private Adoption in Canada 14

2.0 Methodology 17

2.1 Research Design 17

2.2 Stage I: Literature Review 17

2.3 Stage II: Interview of Experts 18

2.3.1 Sample 18
2.3.2 Procedure 18

2.4 Stage III: Community Consultation 19

2.4.1 Procedure 19

3.0 Literature Review 21

3.1 Social Trend and Factors Affecting Agency Adoptions 21

3.1.1 Declining Birth Rate 22
3.1.2 Decrease in Women Relinquishing Children to Adoption Agencies 23
3.1.3 Agency Factors Contributing to the Decline of Children Available in Agency Adoptions 23
3.1.4 Summary 25

3.2 Issues Relevant to Third-Party Intermediary Adoptions 25

3.2.1 Protection of Rights 26
3.2.2 Delivery of Adoption Services 28
3.2.3 Costs of Adoption Services 30

3.3 Issues Relevant to Private Agency Adoptions 31

3.3.1 Protection of Rights 32
3.3.2 Delivery of Adoption Services 33
3.3.3 Costs of Adoption Services 34

3.4 Issues Relevant to Public Agency Adoptions 35

3.4.1 Protection of Rights 35
3.4.2 Delivery of Adoption Services 36
3.4.3 Costs of Adoption Services 36

3.5 Success of Agency versus Third-Party Placements 37

3.6 Summary 38

4.0 Interview of Experts 41

4.1 Issues Relevant to Third-Party Intermediary Adoptions 41

4.1.1 Protection of Rights 41
4.1.2 Delivery of Adoption Services 43
4.1.3 Costs of Adoption Services 44

4.2 Issues Relevant to Private Agency Adoptions 44

4.2.1 Protection of Rights 45
4.2.2 Delivery of Adoption Services 46
4.2.3 Costs of Adoption Services 47

4.3 Issues Relevant to all Non-Ward Adoptions in Canada 47

4.4 Role of Government in the Private Adoption System 48

- 4.4.1 Setting Standards 48
- 4.4.2 Licensing, Accreditation and Monitoring 49
- 4.4.3 Home Assessment 49
- 4.4.4 Maintain Adoption Information 50
- 4.4.5 Step-Parent and Relative Adoption 50
- 4.4.6 Interprovincial and International Adoption 50

4.5 Summary 51

5.0 Community Consultation 53

5.1 General Observations 54

5.2 Third-Party Intermediary and/or Private Agency Adoptions: Perceived Advantages 56

5.3 Third-Party Intermediary and/or Private Agency Adoptions: Perceived Disadvantages 60

5.4 The Adoption Process: Central Issues 64

- 5.4.1 Required Minimal Government Intervention 64
- 5.4.2 Protection of Human Rights 66
- 5.4.3 Delivery of Direct Adoption Services 69
- 5.4.4 Costs of Adoption Services 74

5.5 Step-Parent and Relative Adoptions 75

5.6 Interprovincial and International Adoptions 76

5.7 Indian and Metis Adoption Concerns 76

5.8 Summary 77

6.0 Discussion and Recommendations 79

6.1 Key Findings Relevant to Third-Party Intermediary Adoptions 79

6.2 Key Findings Relevant to Private Agency Adoptions 80

6.3 Key Findings Relevant to Public Agency Adoptions 81

6.4 Findings Relevant to the General Process of Adoption 82

6.5 Desirable Characteristics of the Private Adoption Process 82

6.5.1 Characteristics of the Adoption Process 83
6.5.2 Measures to Protect the Rights of Individuals 84
6.5.3 Characteristics of Service 84

6.6 Recommended Model for Private Adoption 85

6.6.1 Recommended Model: Costs 89

6.7 Recommendations 90

6.7.1 Specific Recommendations: Adoption Process 90
6.7.2 Specific Recommendations: Adoption Costs 92
6.7.3 Specific Recommendations: Pre-Placement 93
6.7.4 Specific Recommendations: Post-Placement 95
6.7.5 Specific Recommendations: Post-Adoption 95

Notes 97

References 99

Appendix A Terms of Reference 102

Appendix B Interprovincial Comparison 113

Appendix C Executive Summary 118

Appendix D Interview Protocol 127

Appendix E List of Experts 131

Appendix F List of Presentations Made Directly to the Private Adoption Consultation Committee 134

Appendix G List of Written Submissions Sent to the Private Adoption Consultation Committee 143

LIST OF TABLES AND FIGURES

Table 1.1 Adoptions in Alberta by Type of Placement and Year 12

Table 1.2 Private Placement in Alberta by Type and Year 13

Table 2.1 Stages of the Project and Related Methodology 17

Figure 6.1 Recommended Adoption Process for Non-Relative Private Adoption 86

1.0 INTRODUCTION

The Child Welfare Act of Alberta (1984) proposed to reduce the role of Alberta Social Services and Community Health (ASSCH) in the adoption of children who are not the subject of a permanent guardianship order or agreement whereby the government became the children's guardian. This change was intended to minimize the intervention of government in the private lives of citizens. However, the public responded by expressing concern that such a legislative provision would inadequately protect the best interests of the child, particularly against inappropriate placements.

In response to the concern about minimizing government involvement, the Child Welfare Act as proclaimed (July 1985) reinstated the role of Alberta Social Services and Community Health in all private adoptions. In addition, the Minister, in consultation with his Provincial Advisory Committee on the Family, requested that the present study be implemented to address the issues of government involvement in the adoption of children who are not under the guardianship of the government.

1.1 Purpose of the Study

While the overall focus of the study, as defined by the terms of reference, was the extent to which government should be involved in these adoptions, specific questions were also raised (see Appendix A for Terms of Reference). These questions focused on the information the department would need to develop appropriate policy. The specific questions were reviewed by the research team in consultation with the Minister's Subcommittee on Private Adoption. As a result, the questions were refined and grouped according to two central issues: (1) the process of private adoption, and (2) the rights of the three parties involved in the private adoption process: the child, the relinquishing parents, and the adopting parents.

The specific objective of this study, then, is to respond to the revised questions listed below.

1.1.1 Process of Adoption of Children not Subject to Government Guardianship

- Should Alberta Social Services and Community Health consider private agency and/or third-party resources to assist in adoption services?
- Should Alberta Social Services and Community Health intervene in the adoption process prior to placement (i.e., be responsible for home assessment and matching)?
- Should Alberta Social Services and Community Health intervene in the adoption process after the placement (i.e., in a monitoring role)?
- Should Alberta Social Services and Community Health perform only a record-keeping function in the adoption process?
- Should Alberta Social Services and Community Health be responsible for developing standards for the adoption process if private agencies and/or individuals are used (e.g., for performing home assessments)?
- Should Alberta Social Services and Community Health be financially responsible for the training and certification of private adoption agencies and/or individuals?
- Are private agency resources readily available in Alberta communities?

- Are third-party intermediary resources readily available in Alberta communities?
- Should private agencies and/or third-party intermediaries (individuals) be able to profit from their involvement in the adoption process, or should they only be able to recover costs?
- Should payments for adoption services be regulated?
- What should be the minimum level of qualification for private agencies?
- What should be the minimum level of qualification for third-party intermediaries?
- Should a limit be imposed on the number of agencies or individuals licensed?
- Should a limit be imposed on the number of adoptions that a third-party individual may facilitate?
- If a private adoption agency and/or intermediary system is used, who should be responsible for the collection, maintenance, and confidentiality of adoption information?
- Should relative and step-parent adoptions be facilitated with minimum involvement by Alberta Social Services and Community Health and the courts?
- Should relative and step-parent adoptions be exempted from some of the provisions required in other adoptions?

1.1.2 The Child

- Should Alberta Social Services and Community Health intervene only when the best interests of the child are at risk?

- Who should be responsible for ensuring that the child's social, cultural, and religious heritage is protected?
- Should private adoption placement outside Alberta be controlled and/or monitored by Alberta Social Services and Community Health?
- Should Alberta Social Services and Community Health intervene if the adoptive applicants fail to proceed with an application to the court for an adoption order?
- What mechanisms or processes should be considered to address the legal status of the child during the period after the placement, but before an adoption order is granted by the court?

1.1.3 The Relinquishing Parents

- What kinds of safeguards and supports should be available to ensure that the true, informed wishes of the relinquishing parents are respected in adoptions?
- What role, if any, should the relinquishing parents have in selecting the adoptive parents through the matching process conducted by the department, a private agency, or a third-party intermediary?
- What kinds of compensations or payments (e.g., medical fees) should be acceptable for the relinquishing parents?
- What needs to be done to protect the relinquishing parents against inducements or pressure tactics in a non-government system?

- Should Alberta Social Services and Community Health provide pre- and post-adoption counselling to the surrendering parents, regardless of their age?
- What minimum information about the birth parents must be provided to the adopting applicants?
- What should be done about the guardianship rights, interests, and the responsibilities of the relinquishing parents toward the child if the adopting parents fail to proceed with the adoption?
- What services, if any, should be made available which would reduce the need to relinquish a child and would keep the natural family as a functioning unit?

1.1.4 The Adopting Parents

- Should the adopting parents assume greater responsibility for the costs of processing the application?
- What needs to be done to ensure that the adopting parents receive adequate information about the child placed for adoption?
- Should counselling (i.e., pre-placement, post-placement, and post-adoption) be provided for the adopting parents if requested?

1.2 Definition of Key Concepts

The accurate understanding and interpretation of much of the information contained in this report is contingent on a clear understanding of several key concepts. These concepts are briefly defined below according to their usage in this report.

Adoption

Adoption, in a general sense, is a legal status created by a court order which constitutes a relationship of parents to child between persons not so previously related. The adopting parents become the parents, with all rights and duties, of the adopted child as if that child had been born to the parents. At the same time, the adoption order terminates all legal bonds between the natural parents and the child (da Costa, 1972).

Private Adoption

Unfortunately, the term "private adoption" is used in many contexts. In this study, *private adoption is defined as the adoption of a child who is not the subject of a permanent guardianship order or agreement* (whereby the government becomes the child's guardian), *through a process which involves the use of non-government resources*. This definition is consistent with the concept as it is used by Alberta Social Services and Community Health and most other provincial governments in Canada. The concept of "private" as used here is contingent both on the *legal status* of the child at the time of the adoption and the *ownership of the resources* used in the process by which the adoption is arranged.

Third-Party Intermediary Adoption

Third-party intermediary adoption refers to the process by which a private adoption may take place. A third-party intermediary adoption is an adoption that is arranged by an individual (e.g., doctor, lawyer, social worker, etc.) or an individual who represents a formal organization. In the United States, third-party intermediary adoption is often referred to as independent adoption and it consists solely of adoptions arranged by an individual *not* representing a formal organization.

- Private Agency Adoption

A private agency adoption refers to a non-government agency which provides adoption services, operating on either a non-profit (volunteer) or profit basis. Again this definition is based on the process of the adoption. Currently, Alberta does not recognize private adoption agencies. However, an individual representative from a formal organization may act as a third-party intermediary.

- Public Adoption Agency

A public adoption agency is a tax-supported, government agency providing adoption services.

- Step-Parent Adoption

A step-parent adoption is: (1) the adoption of a child of a former marriage or relationship by the new spouse of the natural parent; or (2) the adoption of an illegitimate child by the mother's husband.

- Relative Adoption

A relative adoption refers to the adoption of a child by a relative.

- Parental Placement

The direct placement of a child with a non-relative by the birth parents is a parental placement.

- Interprovincial Adoption

Interprovincial adoption refers to the adoption of a child from another Canadian province by an Albertan, as well as the adoption of an Alberta child by someone living in another province.

- International Adoption

An international adoption is the adoption of a child from or to another country.

1.3 History of Adoption in Alberta

Alberta enacted its first child welfare legislation in 1909 under the Department of the Attorney General (Albert, 1980). The Neglected and Dependent Children's Act became the province's basic legislation for dealing with the welfare of children. Its premise reflected the prevailing social attitude that children should not be treated on the same basis as indigents and should not, therefore, automatically become public charges. As a result, foster home placement was provided in the Act.

The passing of the 1923 Infants Act first introduced legal adoptions to the province. However, it was not until the Alberta Child Welfare Act was enacted in 1925 that additional provisions concerning foster home placements were made (Albert, 1980; Hepworth, 1980). The 1925 Act implemented better mechanisms for adoption, made provisions for children born out of wedlock, and made provisions for a child to be committed to the care and custody of the Superintendent of Child Welfare by order of the court.

In 1925, the government became more directly involved in the provision of child welfare services as a result of complaints of child abuse and neglect by private agencies in the province's rural areas (Albert, 1980). By assuming responsibility for the newly created Children's Aid Society, the government had the authority to enter the local community to provide protective services, find foster homes, place children, and arrange and finalize adoptions.

The establishment of the Department of Public Welfare in 1944 resulted in the passing of a second Child Welfare Act (Albert, 1980). This Act provided for both adoption and foster care, appointed a Child Welfare Commission, and mandated that non-ward adoptions, like ward adoptions, were to be the responsibility of the provincial authority (Albert, 1980; Hepworth, 1980).[1]

In 1947, a study by the Imperial Order of Daughters of the Empire was completed which pinpointed the deficiencies of the child welfare system in Alberta (Albert, 1980; Hepworth, 1980). With respect to adoption, the study indicated weaknesses in the system, including the lack of a thorough assessment prior to the placement of a child; the adopting parents receiving inadequate histories of the child; the lack of adequately trained staff; and the lack of post-placement visits by child welfare staff. The report also recommended that out-of-province adoptions be discontinued and that the one-year probation period be extended to two years (Albert, 1980).

In 1961, the Child Welfare Act was amended. This amendment set a trend toward broadening the definition of "adoptability." The Department of Public Welfare began active campaigning in an effort to increase the number of homes available for adoption and fostering. There was a particular emphasis on placing children with special needs, which included children who were older, handicapped, or Native. A 1965 Committee on Adoption indicated that as a result of the low birth rate during the depression years, there was a decrease in the number of applicants to adopt children. The Committee advocated subsidized adoption, cross-border placement, and the discouragement of "hasty" acceptance of surrenders as remedies to the increasing backlog of children in care. In addition, the Committee suggested that adoption policies be relaxed in order to recruit potential adoptive parents.

In 1966, the Child Welfare Act of Alberta was passed. By 1970, an important social trend was identified: more adoption applications were received yearly than there were infants available for adoption. The emphasis had shifted from finding available homes, to finding Caucasian infants for placement (Albert, 1980).

The 1966 Act, unlike the preceding acts, mandated a great deal of responsibility and control over the process of non-ward adoptions to the Director of Child Welfare. The non-ward (or private) adoption process began with an application in the form of a petition submitted to the Director of Child Welfare. The Director was then responsible for filing the adoption application in court within six months. The Director of Child Welfare was also responsible for completing a home study which was submitted with the petition to the court. Thus, unless unusual circumstances existed, the adopting parents had very little direct involvement and responsibility in the non-ward adoption process.

In addition to mandating the high level of direct government involvement in the private adoption process, the Child Welfare Act of 1966 required a placement probation period of six months, prohibited non-government advertising of children for adoption, prohibited payments to procure a child for adoption, and required that the Director of Child Welfare be notified by both the biological parents and the adopting parents of any adoption placement.

1.3.1 The Proposed New Child Welfare Act (Bill 35, 1984)

The new Child Welfare Act (1984) proposed a great reduction in the government's direct involvement in the private adoption process and an increase in the responsibilities of the applicants. Under the proposed Act, all applications for adoption required a court hearing by a family court, and any adult could make a direct application to the court for an adoption order. The applicant would also be responsible for retaining legal representation, and for hiring a professional qualified to complete a home assessment. The applicants would inform a director of Child Welfare and the child's guardian thirty days in advance of the date of the court hearing of application.

Unlike the previous legislation, the new Act did not require a director to be notified of a private adoption placement. It also did not propose prohibiting the advertisement of children for adoption or advertisement of the desire to adopt children. In addition, the penalty for giving or receiving a payment to procure a child for the purposes of adoption was increased to $10,000 or six months imprisonment.

1.3.2 The Proclaimed Child Welfare Act (July 1985)

The proposed shift in the role of the government in the private adoption process resulted in an expression of public concern that the best interests of the child would not adequately be protected. Subsequently, Sections 57, 58, 59, and 62 of the proposed new Act were not proclaimed pending further study, and the department's prior level of involvement in private adoptions was retained with only minor changes. Thus, at present, a director must be notified when a child is placed for adoption or received for adoption, and the penalty for procuring a child for adoption has remained at $10,000. Further, a director is responsible for completing investigations and submitting reports to court. In addition, a director continues to prepare, process, and pay for the petitions submitted to the court for a final adoption order. However, it is not necessary that hearings be held with respect to all petitions, and the six-month probationary period has been waived.

1.4 Extent of Private Adoption in Alberta

The adoption situation in Alberta has changed over the last few years. Where once it was possible to adopt a healthy Caucasian infant within a few months of being approved by the department, the current waiting period to adopt such infants is three to four years. Table 1.1, which contains data from Alberta Social Services and Community Health, indicates the following trends: (1) fewer children who are under a guardianship order or agreement are being adopted; and (2) more children are being adopted privately. These trends could be attributed to the tendency of Alberta Social Services and Community Health to support and assist the child in the natural family.

Table 1.1

Adoptions in Alberta by Type of Placement and Year

Type of Placement	1980	1981	1982	1983	1984
Children placed privately (non-ward)	891 (54.0%)	907 (54.1%)	947 (57.4%)	1056 (60.3%)	1070 (63.7%)
Children placed under guardianship order or agreement (ward)	758 (46.0%)	768 (45.9%)	704 (42.6%)	694 (39.7%)	609 (36.3%)
Total	1649 (100%)	1675 (100%)	1651 (100%)	1750 (100%)	1679 (100%)

Source: Anne Scully, Program Supervisor of Adoptions, Alberta Social Services and Community Health, 1985.

As Table 1.2 indicates, most of the adoptions of children not under a guardianship order or agreement are step-parent adoptions. These adoptions consist of either the adoption of children of a previous marriage or the adoption of children born out of wedlock. In 1980, step-parent adoptions accounted for 86% of all the private placements in Alberta. By 1984, this figure had decreased slightly to 78%.

Table 1.2

Private Placement in Alberta by Type and Year

	Year				
Type of Placement	1980	1981	1982	1983	1984
Step-parent (previous marriage)	442 (49.6%)	467 (51.5%)	432 (45.6%)	504 (47.7%)	465 (43.5%)
Step-parent (out of wedlock)	328 (36.8%)	288 (31.8%)	329 (34.7%)	367 (34.8%)	369 (34.5%)
Placed privately*	107 (12.0%)	135 (14.9%)	144 (15.2%)	134 (12.7%)	143 (13.4%)
Third-party intermediary**	-	-	16 (1.7%)	20 (1.9%)	36 (3.4%)
International placements	14 (1.6%)	17 (1.9%)	26 (2.7%)	31 (2.9%)	57 (5.3%)
Total	891 (100%)	907 (100.1%)	947 (99.9%)	1056 (100%)	1070 (100%)

* From 1980 to 1982, private placements included placements by parents and by third-party intermediaries. Intermediary refers to individuals (i.e., doctors or lawyers) or individual representatives of formal organizations. From 1982 on, the category included only adoptions directly arranged by parents.

** 1982 was the first year in which Alberta Social Services and Community Health recorded third-party placements separately from private placements by parents.

Source: Anne Scully, Program Supervisor of Adoptions, Alberta Social Services and Community Health, 1985.

Children placed directly by their parents comprise the second largest category of private placements. In 1980, for example, 12% of private placements were arranged either by the parents directly or by third-party intermediaries. Despite the inclusion of third-party intermediaries as a category in 1980 and 1981, the data available for 1984 indicate that 13% of the private placements in 1984 were arranged by the birth parents. The data does not indicate whether these placements were with relatives or non-relatives.

International placements accounted for 1.6% of all private placements in 1980. By 1984, this figure had increased to 5.3%.

Alberta Social Services and Community Health first began recording the number of private placements arranged by third-party intermediaries in 1982. In 1982, 16, or 1.7% of the total number of private placements were arranged by a third-party intermediary. In 1983, these figures had increased to 20, or 1.9% of all private placements. The data available for 1984 indicate that the number of private placements by third parties had continued to increase: 36, or 3.4% of all the adoptions not arranged by the Alberta Social Services and Community Health had third-party intermediary involvement.

1.5 Extent of Private Adoption in Canada

In Canada, each province assumes responsibility for child welfare. As a result, there are substantial differences in adoption legislation across the country. With the exception of Quebec, all Canadian provinces have legislation which permits the involvement of non-government resources in the adoption of children who are not the subject of a guardianship order or agreement whereby the government is the guardian of the child. The process of this "private" adoption involves a range of placements by the biological parents, third-party intermediaries and private agencies. The legislation of each province differs substantially with respect to the extent of government intervention in the private adoption process and the alternative resources permitted (see Appendix B).

Third-party intermediaries (individuals and agencies) are prohibited in Saskatchewan and Newfoundland (ASSCH, 1983). In New Brunswick, the use of third-party intermediaries is not prohibited, but is actively discouraged. In all other provinces, adoptions may be arranged by an intermediary.[2] Private placements by parents, and relative and step-parent adoptions are allowed in all provinces permitting private placements except Ontario. In Ontario, the law provides that a third-party intermediary (individual or agency) must be involved in arranging private adoptions. Private, non-government agencies are established in Ontario, Nova Scotia, and Manitoba. In these provinces, private agencies are subject to various government standards and regulations.

Provincial legislation mandates that an assessment of the adopting parent's home must be carried out by the Ministry in Prince Edward Island, Newfoundland, New Brunswick, Saskatchewan, Alberta, and British Columbia. In Nova Scotia and Manitoba, home assessments may be conducted by the Ministry or can be arranged to be conducted privately. In Ontario, the Ministry is not involved in the home assessment. However, a home assessment is completed by a private agency social worker who has government approval. Currently, Ontario and Manitoba are the only provinces where a home assessment is completed prior to the placement of a child (ASSCH, 1983).

Ontario is the only province in which third-party intermediaries are able to collect a fee for services. In those provinces where intermediary placements are allowed, the intermediary can only charge for the direct costs of the adoption. The private adoption agencies in Ontario, Manitoba, and Nova Scotia are all non-profit.

In all provinces permitting private adoptions, court hearings are required to formalize the final adoption order.

Overall, there is little reliable data available with regard to the extent of private adoptions in Canada.[3] The lack of data has been attributed to a number of factors. First, the types of private adoption allowed in each province are often so different that a comparison of statistics cannot always be made between provinces. Second, at the provincial level, different recording periods or legal delays in processing adoptions create a difficulty in tabulating annual statistics. Third, private adoptions (specifically relative adoptions) may be recorded in vital statistics but child welfare services may not have records of such adoptions.

Despite the state of statistical records, it is apparent that the relative frequency of private adoptions (excluding the adoption of children by relatives or spouses) in Canada has increased steadily over the last decade while public agency adoptions have decreased (Hepworth, 1980; Brieland, in Sachdev, 1984; Ferguson, 1985). It is estimated that as many as 25% of all adoptions (excluding step-parent adoptions) are arranged independent of government social agencies (Brieland, 1984). These data are comparable to United States national data. Meezan (1980), for example, states that private or independent adoptions account for approximately 20% of the total number of adoption placements in the United States.[4]

2.0 METHODOLOGY

2.1 Research Design

The broad, complex nature of the research questions outlined in Section 1.1 necessitated the use of a multi-faceted approach to the study of private adoption. The study was composed of three major data gathering components or stages as indicated in Table 2.1.

Table 2.1

Stages of the Project and Related Methodology

Stage	Methodology
Stage I	Literature Review
Stage II	Interview of Experts
Stage III	Community Consultation

2.2 Stage I: Literature Review

In Stage I, a thorough review of academic and government literature pertaining to private adoption was conducted. This consisted of manual searches of the library at The University of Calgary and online computer searches of numerous databases. Databases that were explored included: (1) Educational Resources Information Center (ERIC); (2) PSYCINFO; (3) SOCIAL SCISEARCH; (4) Family Resources; and (5) the Legal Resource Index (LRI). In addition, relevant government literature was made available by the Alberta Social Services and Community Health library in Edmonton.

The information produced by the literature review reflected directly on the issues that have been found to be associated with various types of adoption systems. An Executive Summary based on the findings of this component was distributed by Alberta Social Services and Community Health and used as the basis for the community consultation (Stage III) outlined in Section 2.4 (see Appendix C).

2.3 Stage II: Interview of Experts

Stage II of the study consisted of face-to-face open-ended interviews with government, academic, and community experts in the area of private adoption (N=17). The interview protocol was based on the Executive Summary issues paper produced from the Stage I literature review (see Appendix D).

2.3.1 Sample

The sample consisted of seventeen adoption experts (see Appendix E). Of this sample, one respondent was involved with a non-government private agency, two respondents were academic experts in adoption, and the remainder were directly involved with adoptions in a government capacity.

2.3.2 Procedure

A list of provincial adoption coordinators from across Canada was supplied by Alberta Social Services and Community Health. The coordinators were initially contacted by telephone to determine the extent to which their adoption legislation provides for private adoptions. They were also asked if they would supply the following information: (1) their provincial legislation regarding adoption; (2) published materials or documents pertaining to private adoption services; and (3) the names of any additional contacts in government, universities, or outside agencies who could supply further information. Finally, they were asked if they would be available for an interview.

Interviews were conducted by the principal investigator, Dr. Joseph P. Hornick, from October to December 1985. The length of the interviews ranged between one and two hours. The respondents were asked their personal and professional opinions on the issues associated with private adoption. The interviews were tape-recorded to ensure that all data were secured, and each interview was transcribed. Summaries of each interview were completed and the results were tabulated. The findings are discussed in Section 4.0.

2.4 Stage III: Community Consultation

Stage III focused on the resources for, and community perceptions of, private adoption in the Alberta context. The consultations were conducted as open community forums and were held in seven locations within the province of Alberta. These forums were structured around the issues and options identified in the Executive Summary produced during Stage I of the project.

2.4.1 Procedure

Press releases and advertisements in daily newspapers invited the public to make written and/or oral submissions directly to the

Consultation Committee at designated times in Edmonton, Calgary, Lethbridge, Medicine Hat, Red Deer, Grande Prairie, and St. Paul. The announcement stated, "The Committee is accepting written and/or oral submissions and suggestions from interested individuals and groups regarding desired changes or amendments to private adoption legislation in Alberta."

A consultation team consisting of members of the Subcommittee on Private Adoption in consultation with, and facilitated by, a senior consultant of the research team, Dr. Ray Thomlison, travelled to the forum sites and systematically collected (by recording) information directly from Alberta communities. Written submissions were also solicited by the Subcommittee on Private Adoption during this stage of the study.

In total, eighty written and oral presentations were made directly to the Consultation Committee (see Appendix F for a complete listing of the presentations). In addition, thirty-seven written submissions were sent to the Committee (see Appendix G).

3.0 LITERATURE REVIEW

In this section of the report, the general trends which affect all aspects of adoption will be discussed first. Then the specific issues associated with the adoption of non-wards through the resources of the third-party individual, the private agency, and public agency will be explored.

3.1 Social Trends and Factors Affecting Agency Adoptions

In Canada during the 1950s and 1960s, there was an excess number of adoptable children relative to the number of adoption applicants (Hepworth, 1980; Ferguson, 1985). At that time, there was overriding pressure for child welfare services to recruit potential adopters (Hepworth, 1980). Since the 1970s, and continuing through the early 1980s, there has been an overall decline in the number of children available for adoption in Canada (Hepworth, 1980; Brieland, 1984; Ferguson, 1985).[5] In addition, there has been a trend towards making available services to an unwed parent which make rearing a child alone more viable (Meezan, 1978).

The decline in adoptions and the increased use of private placements has been correlated with three factors. First, there has been a marked decline in the birth rate.. This decline has been associated with the increased use of birth control, the legalization of therapeutic abortions, and the increased rate of infertility in the population. Second, the number of women keeping children born out of wedlock has increased. And third, the policies and practices of public agencies have been cited as a reason for the decline in the adoption rate (Meezan, 1978; Charney, 1985).

It has been suggested that a combination of these factors has resulted in a decline of children available for adoption in Canada, the United States and the United Kingdom (Meezan, 1978; Hepworth, 1980; McTaggart, 1980; Bean, 1984). These factors, or trends, are discussed in greater detail below.

3.1.1 Declining Birth Rate

° Contraceptives

The increased use of contraceptives has been associated with the decline of the annual birth rate (Hepworth, 1980). It has been suggested that women who did not want children have, in the past, given them up for adoption. Now, many career-oriented women are using contraceptives and intentional childlessness has become an alternative.

° Abortion

In the United States, abortion is now a viable alternative for women facing an unwanted pregnancy. Currently, in Canada, therapeutic abortion is an alternative only when "the pregnancy of such female person would or would be likely to endanger her life or health" (Section 251(3)(c), Criminal Code of Canada, 1985).

° Infertility

Infertility has also affected the birth rate. One recent study estimated that almost 15% of the American population is infertile (Reiter and Buttrom, 1985). Another source estimates that almost 20% of American couples of childbearing age have some type of infertility problem (Children's Home Society of California, 1984). Some of the factors associated with the growing infertility rate include the use of

VDTs, toxins in the air, food additives, and the increased number of females waiting longer to have children.

3.1.2 Decrease in Women Relinquishing Children to Adoption Agencies

Primarily, most children who have been surrendered to agencies for adoption have been born to unwed, and often, adolescent mothers (Meezan, 1978; Hepworth, 1980). The number of children who have been surrendered has, in general, been closely related to the number of children born out of wedlock. Yet, there is evidence to suggest that while the rate of teenage pregnancies and unmarried women carrying pregnancies to full term has remained stable, fewer of these women are relinquishing their infants (McNamara, 1975; Charney, 1985). As a result, adoption agencies are reporting fewer infants available for adoption (Meezan, 1978; Hepworth, 1980; Charney, 1985). This trend has been attributed to the liberalization of social attitudes toward illegitimacy and the subsequent legal reforms concerning children born out of wedlock (McNamara, 1975; Sorosky et al., 1978; Bean, 1984; Charney, 1985).

3.1.3 Agency Factors Contributing to the Decline of Children Available in Agency Adoptions

Agency factors are also cited as contributing to the overall decline in the number of children available through public and volunteer agency adoptions. As a result, more people are turning to third-party intermediaries to adopt a child privately (Meezan, 1978; Children's Home Society of California, 1984; Charney, 1985).[6] For example, Meezan (1978) has suggested that the community perceives agency adoption policies (especially adoption requirements) as restrictive, and the formality of the application process often dissuades prospective adopting parents from utilizing the service. Meezan (1978) has also argued that certain public agency practices, such as determining the motivation behind an adoption application and exploring the adoptive parents capacity for the parental role, have been perceived as impersonal and intrusive. Charney (1985) has argued that adoptions arranged by third-party intermediaries are faster than agencies in placing a child and finalizing the adoption order. Because the period of time between placement and finalization has been cited as one of uncertainty and instability for the birth parents, the adoptive parents, and the child, the expedient finalization of an order is considered psychologically beneficial (Goldstein, et al., 1979). In addition, lengthy waiting lists of applicants, as a result of the decline in the number of children available, may prompt couples seeking adoption to investigate alternatives to the agency adoption process (Meezan, 1978; Albert, 1980; Children's Home Society of California, 1984).

It has been further suggested that mothers who wish to relinquish their child for adoption prefer placing their child privately through a third-party intermediary rather than through the public agency system for a number of reasons (Meezan, 1978). First, the birth mother may receive substantial financial assistance (provided by the adoptive parents) prior to and often after the birth of the child. In the public agency system, financial assistance (other than social assistance) is usually not available. Second, in the private process, the mother may perceive that she has more input in choosing the adoptive parents for her child than allowed by agency policy (Meezan, 1978; Hepworth, 1980). This may reduce feelings of uncertainty which can be associated with surrendering a child. Finally, information that may be regarded as personal by the relinquishing mother (such as information about the putative father) has not always been demanded by the third-party intermediary (Meezan, 1978).

3.1.4 Summary

Social trends and agency factors have been associated with the increasing number of third-party placements in the United States and Canada. The decline of the national birth rate, in conjunction with the use of birth control, therapeutic abortion, and increased infertility has created a baby shortage. Since the 1970s, agencies have witnessed a dramatic decrease in adoptable children (primarily healthy, Caucasian infants).[7] As a result, there is an excess number of applicants relative to the number of children available for adoption. In the United States and Canada, adoptive and birth parents are turning to the third-party intermediaries. It has been suggested that this process is less bureaucratic, more personalized, less intrusive, and more expedient in arranging for placement and adoption than the public or private adoption agency.

3.2 Issues Relevant to Third-Party Intermediary Adoptions

Third-party individuals (or facilitators) consist mainly of lawyers or doctors, but any individual can act as an intermediary in an adoption (Meezan, 1978; Hepworth, 1980; McTaggart, 1980; Charney, 1985). In most of the United States, individuals may profit from arranging adoptions. In the provinces of Canada, they may charge only for direct costs or fees associated with the adoption (Kadushin, 1980; Charney, 1985; Ferguson, 1985).

3.2.1 Protection of Rights

° Child: Legal Status

The concern has been expressed that third-party adoptions do not protect the legal status of the child (Meezan, 1978). This has occurred in cases where the adopting parents have refused to accept the child (whose placement is often arranged before birth) even when the adoption agreement has been finalized, and in cases where the adopting parents have taken the child but have not proceeded to finalize the adoption order (Meezan, 1978; McTaggart, 1980; Children's Home Society of California, 1984). In both situations, the legal status of the child is uncertain, in that the child has no legal guardian or rights to inheritance in the adoptive home until the adoption formally takes place. In addition, the relinquishing mother usually retains guardianship of the child until the adoption has been finalized. As a result, the relinquishing mother may have the child returned to her at any time prior to this point.

Ontario's solution to the issue of the child's legal status has been to make the licensee (third-party intermediary) the guardian of the child until guardianship is transferred to the adopting parents by virtue of finalization of the adoption by the court (Ontario Child and Family Services Act, 1984).

° Relinquishing Mother: Exploitation

The literature indicates that the relinquishing mother is more vulnerable to exploitation and pressure tactics in an adoption arranged by a third-party intermediary (Meezan, 1978; McTaggart, 1980).

A large proportion of relinquishing mothers are unwed adolescents who are usually naive about the adoption process (Meezan, 1978). In some cases, intermediaries have convinced the mother to relinquish her child by inducing her with promises of payment of medical costs, shelter, and, in some situations, cash payments (Meezan, 1976; McTaggart, 1980).

° Putative Father: Right of Consent

In the United States, the rights of the putative father cannot be ignored (as decided by the U.S. Supreme Court in Stanley v. Illinois, 1972). The father has the right to be informed of the adoption proceeding and has the right to petition the court for custody of the child (Kadushin, 1980). Meezan (1978) found that frequently the father's interest was not considered in adoptions involving third-party intermediaries. In addition, some third-party intermediaries have counselled the relinquishing mother not to involve the putative father, in order to speed up the adoption process.

In Canada, the rights of the putative father are not clearly defined. Recent court decisions have increasingly recognized that the rights of unwed fathers should be considered in decisions involving their children. Third-party intermediaries, however, usually do not involve the putative father in the adoption process (Ferguson, 1985).

° Adopting Parents: Adequate Information

The adoptive parents have a right to appropriate and accurate information about the child's social and medical background to assist the child in developing a sense of identity and emotional well-being, as well as to provide adequate care for the child (McNamara, 1975; Meezan, 1978; Sorosky, 1978).[8] However, third-party intermediaries may not provide the adoptive parents with information for two reasons (Meezan, 1978). First, the surrendering mother (or, in some cases, the intermediary) may not want to divulge certain information that would reduce the child's chances of adoption. Second, individuals may not recognize the importance of some information to the adoptive parents or the child. Thus, there is reason to be concerned that privately adopting parents may receive an incomplete or biased social history of the child (Hepworth, 1980).

3.2.2 Delivery of Adoption Services

° Home Assessment

One element of "good adoption practice" is to determine what is in the best interests of the child in terms of physical well-being, emotional adjustment, and permanency of the adoption placement (Goldstein, 1977). The home assessment and screening services are supposed to ensure an appropriate placement. However, concerns have been expressed with respect to the completeness and adequacy of home assessments in placements arranged by a third-party intermediary. For example, Meezan (1978) in a comparative study of third-party intermediaries and social service agencies, found that the home assessments completed in independent (third-party) adoptions were cursory. Less time was taken to do a home assessment, contact with the adoptive parents during an investigation tended not to occur, and adoption placements were often made on the basis of whether the home met the minimum requirements established by legislation.

In the United States, independent facilitators are often responsible for conducting the home assessment (Meezan, 1978). Since most third-party intermediaries are lawyers or doctors, the concern has been raised that they are not properly qualified, in terms of training, knowledge, and skills, to conduct a thorough and competent home assessment (McTaggart, 1980).

In Canada, third-party intermediaries must arrange for a qualified social worker to conduct the home assessment. With respect to this issue, however, there is a concern that the home assessment may not be objective when the adopting parents, who are responsible for payment of the costs, are also the subjects of the assessment.

- Counselling

The decision to place a child for adoption has been cited as particularly stressful for the relinquishing mother (Goldstein, 1979). There has been a concern that intermediaries are not professionally trained to provide the mother with counselling to help her cope with the adoption process. In the United States and Canada (with the exception of Ontario), intermediaries are not legally obligated to inform relinquishing mothers of the alternatives to adoption (Meezan, 1978; Hepworth, 1980).

In addition, pre- and post-adoption counselling is usually not available for the adoptive parents when they adopt through a third-party intermediary (Meezan, 1978). This raises some concern since the adopting parents may not be prepared to raise a child, may have difficulty with the concept of raising a child who is not theirs naturally, or may not realize that adoption is a process that has lifelong implications.

3.2.3 Costs of Adoption Services

° Costs to the Adopting Parents

There is also the concern that in the private adoption process, the costs to the adoptive parents may become unreasonably high (McTaggart, 1980). Direct costs associated with adopting through an individual often include fees to the intermediary, payment for a home assessment, financial assistance to the relinquishing mother prior to and often after the birth, and legal costs.[9] There is the concern that adopting parents, in their eagerness to receive a child, may enter into an agreement which may not only be a financial burden, but which may also be legally questionable.

° Two-Tiered System

Another criticism of third-party intermediary adoption is that it may result in a two-tiered adoption system which divides children into two groups (Ferguson, 1985). These groups are comprised of children in high demand (primarily healthy, Caucasian infants), and children who have special needs and are considered, therefore, to be less adoptable. As a result of the decline in the number of adoptable children, public agencies have emphasized the adoption of children with special needs (Meezan, 1978; Hepworth, 1980; Ferguson, 1985). Individuals wishing to adopt a child who is in high demand often turn to third-party intermediaries to find them a child (Meezan, 1978; McTaggart, 1980; Ferguson, 1985). These adoptive parents are, for the most part, of a high socioeconomic status, and are in a position to pay for the costs associated with adopting privately (Meezan, 1978; McTaggart, 1980). Thus, the major concern is that the focus of third-party intermediaries may be the adopting client (especially where the adoption is profit-motivated) rather than the best interests of the child (Ferguson, 1985).

° The Black Market

Finally, there has also been the perception that the increased use of third-party intermediary adoptions could lead to a marketplace system characterized by baby selling. Since the 1950s, the U.S. popular press has given attention to the considerations behind the adoption for profit issue, including black-market adoptions and baby selling (Meezan, 1978). More recently, focus has shifted to the "gray market," where adoptions arranged through intermediaries are often on the legal borderline (McTaggart, 1980). These "baby brokers" have high prices, volume businesses, and make a substantial profit for arranging adoptions. As a result of the white baby shortage, adoptions are often arranged for those who can pay the highest price.

3.3 Issues Relevant to Private Agency Adoptions

Private (volunteer) agencies are non-government agencies accredited by the state to place children for adoption. They are subject to staffing regulations, are mandated by legislation to provide a range of services to their clients, and may be subject to licensing regulations (Gallagher, 1975; Meezan, 1978). Typically, private agencies are non-profit corporations, and they may be subsidized by the state (McTaggart, 1980).

3.3.1 Protection of Rights

- Child: Legal Status

In most private agency adoptions, the birth parents surrender legal rights and responsibilities for the child to the agency. The court must subsequently approve the surrender, after which the child is placed by the agency (Children's Home Society of California, 1984). The private agency assumes responsibility for the child until the adoption order is finalized (Meezan, 1978). The agency is mandated to act on behalf of the child but does not assume guardianship of the child.

- Putative Father: Right of Consent

Private agencies in the United States must, by state law, involve the putative father in the adoption process (Kadushin, 1980). If the father cannot be located, the private agency must make a "reasonable effort" to find him (Children's Home Society of California, 1984). The father's rights must be terminated by a court, and this can occur at the adoption hearing.

- Adopting Parents: Adequate Information

Private adoption agencies in the United States are often mandated by legislation to provide information to the adoptive parents about the child and, if possible, the child's natural family. Information that is provided includes social background, medical history, and if necessary, psychiatric information (Children's Home Society of California, 1984).

3.3.2 Delivery of Adoption Services

- Home Assessment

Home assessments are conducted by a qualified social worker either prior to or after the child's placement in the home. The home must meet standards set by the agency and these standards are enforced by the state (Children's Home Society of California, 1984). However, the home assessment has been perceived by some adoptive parents as intrusive, rigid, and bureaucratic.

- Counselling

Pre-adoptive counselling is available from a private agency as part of their adoption service (Meezan, 1978; Children's Home Society of California, 1984). The birth parents are given counselling regarding available options (keeping the child or placing the child in a temporary foster home), and understanding the legal ramifications of relinquishing a child. Adoptive parents are also given pre-adoption counselling to help them prepare for the adoption (Children's Home Society of California, 1984). This includes providing them with information, counselling the adoptive parents on how to deal with the adoption, and making support services available.

Post-adoption counselling is also available from a private agency in the United States. According to the Children's Home Society of California (1984), birth mothers often need counselling to help them deal with the pain of relinquishing their child, and to help them feel positively about their decision. Adoptive parents can also receive post-adoption counselling. Agencies recognize that because adoption is a lifelong process, adoption has implications for the adoptive family for many years (Children's Home Society of California, 1984). Thus, agencies offer a wide range of services, including support groups, family therapy, education, and mental health services.

3.3.3 Costs of Adoption Services

° Costs to Adopting Parents

Adoptive parents are charged on a fee-for-service basis by a private agency. That is, the home assessment, social worker's time spent on a case, and counselling services are paid by the adopting parents. This may result in a conflict of interest where services provided to the relinquishing parents are paid for by the adopting parents, who are also the paying clients. In addition, agencies may be subsidized by the state.

° Two-Tiered System

Private agencies, by controlling agency intake, are in a position to select children whom they wish to place (Children's Home Society of California, 1984). As a result, they primarily serve the adoption needs of healthy infants. However, because the number of applicants for adoption is increasing and the number of healthy infants available for adoption is decreasing, private agencies are beginning to place children with special needs.

3.4 Issues Relevant to Public Agency Adoptions

Public agencies have a mandate from government to provide for the protection of children and must ensure provision of minimum standards of care and the availability of services for all children. (Hepworth, 1980; Children's Home Society of California, 1984). Public agencies not only provide adoption services, but also provide all other protection services for children under their care.

3.4.1 Protection of Rights

- Child: Legal Status

In a public agency adoption, the child is relinquished directly to the agency. The agency becomes the legal guardian of the child until the adoption order has been finalized (Children's Home Society of California, 1984).

- Putative Father: Right of Consent

Public agencies in the United States are also obligated to protect the rights of the putative father (Children's Home Society of California, 1984). In Canada, the rights of the putative father are not recognized when the child is born out of wedlock. Public agencies, however, attempt to involve the putative father primarily in order to obtain background information about him, but also to ensure that he will not contest the final adoption order (Hepworth, 1980).

- Adopting Parents: Adequate Information

Public agencies are mandated by legislation or regulation to provide information to the adoptive parents about the child, and if possible, about the child's natural family (Meezan, 1978; Hepworth, 1980). Information is routinely collected about the social and medical background of the birth parents and their families.

3.4.2 Delivery of Adoption Services

° Home Assessment

Trained and qualified social workers complete an assessment of the adoptive parents' home either prior to, or after, the child has been placed (Meezan, 1978; Hepworth, 1980; Children's Home Society of California, 1984). Minimum standards must be met before an adoption can be finalized. Home assessments are sometimes regarded as intrusive by the adopting parents.

° Counselling

Pre-adoption counselling is provided to both the birth parents and the adoptive parents as part of the adoption service (Meezan, 1978; Hepworth, 1980). Agencies ensure that the birth mother and adopting parents understand the adoption process, that the birth mother is made aware of her options and understands the legal consequences so that her consent is valid and informed, and that the adopting parents are prepared for an adoption.

Post-adoption services are also available. This includes counselling, therapy and additional support services for the birth parents and the adoptive parents.

3.4.3 Costs of Adoption Services

° Costs to Adopting Parents

In a public agency adoption, there is no cost to the adopting parents as agencies are tax-supported.

- Two-Tiered System

Public agencies serve a broad spectrum economically, ethnically, and racially, in terms of adoptive parents and birth parents (Children's Home Society of California, 1984). In addition, public agencies primarily focus on placing children with special needs. It has been argued that the public agency system has a legitimate role to concentrate their efforts and resources on children who most need assistance or who might not otherwise enjoy the benefits of a permanent placement.

3.5 Success of Agency versus Third-Party Placements

A successful adoption usually means that the adoption placement does not break down within the probation period of the placement (i.e., between the time of placement and the finalization of the adoption order). Awareness of breakdown after the final adoption order does not occur unless the child comes into contact with social welfare authorities at a later point in time. Moreover, little conclusive data are available which compare the breakdown rate (prior to finalization) of agency adoptions with that of third-party intermediary adoptions.

An early United States study by Amatruda and Baldwin (1951) indicated that intermediary-arranged adoptions had a failure rate of 28%, while agency adoptions had a failure rate of 8% during the adoption probationary period. Kornitzer (1968) found the intermediary failure rate to be 25%, as opposed to 14% for agencies. These data may not accurately reflect the current adoption situation, however, because demographic characteristics, social attitudes, and state legislation have changed. Indeed, a later study by Meezan (1978) suggested that third-party and agency-arranged adoptions are equally successful, and that the adoptive homes found by private facilitators were as good as those found by agencies. These studies did not, however, distinguish public agency from private agency placements. Hepworth (1980), using data provided by the Ontario Ministry of Community and Social Services, stated that while the public agency failure rate remained relatively stable between 1961 and 1976, the failure rate for third-party adoptions increased. In 1976, the failure rate for public agency adoptions was almost 5%, while for private adoptions, the failure rate was almost 9%. Brieland (1984), however, has reported that there is no significant difference between public agency and third-party adoption success rates in Canada and the United States. More recent data obtained from interviews with Ontario experts suggests that third-party intermediary adoptions are just as successful as those processed by public agencies.

3.6 Summary

The above section outlined the issues and concerns of the adoption process relative to third-party intermediary adoption, private agency adoption, and public agency adoption. The major issues with respect to these adoptions include: (1) protection of rights; (2) delivery of services; and (3) costs associated with adoption.

Relative to the private adoption process, the specific issues included the following:

- The legal status of the child is, at times, uncertain during the third-party intermediary adoption process.
- Private agencies usually assume responsibility, but not guardianship, for the child as soon as the child is relinquished to the agency.

- Public agencies assume guardianship of the child, by agreement or court order, as soon as the child is relinquished.
- The rights of the putative father are not always taken into consideration in a third-party intermediary adoption.
- In both private and public agency adoptions, reasonable efforts are made to ensure the involvement of the putative father.
- The relinquishing mother is more susceptible to exploitation and pressure tactics in third-party intermediary adoptions.
- Home assessments tend to be of poor quality (or, in some cases, are non-existent) in a third-party intermediary adoption.
- Home assessments tend to be conducted by qualified staff members in private and public agency adoptions.
- Pre-placement counselling is not always available to the relinquishing or adoptive parents in a third-party intermediary adoption.
- Private and public agencies provide counselling to the relinquishing and adoptive parents as part of their service.
- In a third-party intermediary adoption, the adoptive parents are responsible for all costs of the adoption. This may result in a conflict of interest, where the best interests of the child become secondary to the interests of the paying client.
- In a private agency adoption, the adoptive parents pay on a fee-for-service basis. This has the potential to create a conflict of interest.
- There are no costs to the adopting parents in a public agency adoption.
- Third-party intermediary and private agency adoptions may result in a two-tiered system of adoption because the costs associated with the adoption may put them beyond the means of less affluent applicants.

- Third-party intermediaries tend to place children in high demand.
- There is the perception that increased use of third-party intermediaries in adoptions may lead to the black market selling of babies.
- Private agencies are able to control their intake, therefore, they are in a position to place babies in high demand.

4.0 INTERVIEW OF EXPERTS

Stage II of this study consisted of interviewing government, academic and community experts in private adoption. The purpose of these interviews was to obtain information on private adoption in addition to that available in the published literature. The intent was to benefit from the vast first-hand experience of individuals who have been involved in the private adoption process on a day-to-day basis, particularly in Canada.

This section of the report contains the aggregate experiences and opinions of these experts on the issues relevant to third-party intermediary adoption, private agency adoption, and private adoption in general. The section concludes with the experts' perceptions of the necessary role of government in private adoptions.

4.1 Issues Relevant to Third-Party Intermediary Adoptions

Third-party intermediary adoptions are adoptions facilitated by lawyers, doctors or other professionals (e.g., social workers). This type of adoption is legal in all Canadian provinces except Quebec, Saskatchewan, and Newfoundland. Likewise, it is legal in all but four states (e.g., Minnesota does not allow third-party intermediary, or independent, adoption). The specific issues or problems associated with this type of adoption process, as perceived by the experts, are outlined briefly below.

4.1.1 Protection of Rights

- Child: Legal Status

Several of the respondents felt that the relinquishing mother was often not informed by the intermediary that she was the legal guardian of the child until the adoption order was finalized by the court. This lack of information, in combination with the probability that the relinquishing mother, after the placement of the child and her consent to relinquish the child is often unavailable, has led to problematic situations. For example, there have been cases where the child (now living with the adopting parents) needed medical treatment which required the consent of the legal guardian of the child. The relinquishing mother, who could not be found, was the only one who legally had such authority. Obviously, this problem could lead to a risk situation for the child which could be minimized if adequate information were given.

- Relinquishing Mother: Exploitation

A majority of the experts interviewed felt that third-party intermediaries tended not to properly inform young women who were pregnant of the options available to them besides relinquishing the child for adoption. Further, given that most third-party intermediaries were professionals (i.e., doctors or lawyers), many of the experts felt that pregnant females, especially if they were young, were at a considerable status disadvantage. In other words, they felt that it would be reasonable to assume that a young woman may be substantially intimidated by an authority figure such as a doctor or lawyer who may even be providing direct services to her. Thus, she may not even question the professional about other alternatives.

- Putative Father: Right of Consent

Several of the respondents indicated that they suspected relinquishing mothers were often told not to identify the father of the child since "obtaining consent from the father may slow down the process of bringing the adoption to close."

- Adopting Parents: Adequate Information

Most respondents indicated that third-party intermediary adoptions were characterized by an inadequate flow of information (i.e., social history, medical, etc.) to the adopting parents. There was some indication that the inadequacy of information about the adoptee was a problem resulting from the ignorance of the third-party intermediaries about the importance of the information. Such ignorance is not difficult to understand, given that many third-party intermediaries process very few adoptions per year. In addition, it is unlikely that third-party intermediaries would have formal training in the complex social process of adoption.

4.1.2 Delivery of Adoption Services

In general, the respondents felt that the direct services delivered to the relinquishing mother and the adopting parents by third-party intermediaries were far interior to any other adoption alternative. A lack of outside control, accountability and understanding were seen to be the key weak points of this system of private adoption.

- Home Assessment

Clearly, the respondents felt that home assessments arranged by third-party intermediaries were prone to be low quality. The perceived central issue relative to home assessment was that the intermediary would be in a conflict of interest since the assessment was conducted to determine the suitability of his client as an adopting parent. If the adopting parent was found to be unsuitable, then the adoption would fail and the intermediary would be forced to search for suitable adopting parents or return the child to the relinquishing parents.

° Counselling

Both pre- and post-adoption counselling for the relinquishing mother and the adopting parents was considered to be a problem in third-party intermediary adoptions. The main problem was perceived to be the issue of qualifications. It was felt that it was unlikely that a third-party individual would have the skills and/or qualifications to counsel the parties involved appropriately. Further, it was considered probable that the third-party intermediary would perceive the adoption process as consisting of the short-term legal process and not understand the need for, nor have available resources for, long-term follow-up counselling.

4.1.3 Costs of Adoption Services

Although all the respondents, to some degree, agreed that there should be no monetary profit involved in the process of adoption, they indicated that profiting by procurement of a child for adoption was almost impossible to control in third-party intermediary adoptions.

4.2 Issues Relevant to Private Agency Adoptions

The expert respondents clearly distinguished between third-party intermediary and private agency adoptions. Private agencies were viewed as being non-profit or volunteer incorporated organizations whose major purpose was either to process private adoption alone or in conjunction with other child welfare services.

The private agencies were also assumed to be processing a considerable number of adoptions in comparison with third-party intermediaries who may facilitate only one adoption. These agencies were also assumed to either have on staff, or have very easy access to, a variety of qualified professionals including, at minimum, social workers and lawyers.

4.2.1 Protection of Rights

- Child: Legal Status

The respondents felt that guardianship of the child was also an issue with private agencies. The problem occurs because the relinquishing mother (except in Ontario) is the legal guardian until the adoption order is finalized.

However, the respondents indicated that they felt the legal status of the child issue would not be as much a problem in the private agency system as it could be in third-party intermediary adoptions. This conclusion was based on the assumption that private agencies would have a waiting list of prospective adoptive parents. Thus, the child who was rejected by adopting parents could be quickly and efficiently passed on to the next adopting parent on the list. The issue of guardianship, however, is not addressed by this process.

- Relinquishing Mother: Exploitation

It was assumed by most of the respondents that relinquishing mothers received more balanced pre-adoption counselling from a private agency model than they did from a third-party intermediary model since the intermediary adoption was very dependent on individual cases. Likewise, it was felt that there would be a higher probability that qualified experienced professionals would be involved with obtaining consent and pre-adoption counselling.

4.2.2 Delivery of Adoption Services

° Home Assessment

Many of the experts felt that the home assessment was the key to protecting the best interests of the child and, therefore, should not be left as the responsibility of the private agency. This conclusion is, in part, based on the fact that an agency's primary mandate may be to facilitate adoptions. Thus, a conflict of interest could occur.

° Long-Term Information

Many of the respondents indicated that information regarding adoptions should not be left with the private agency. Many agencies of this type are funded on an annual basis and, therefore, there was concern about the possible closure of private agencies and the subsequent loss of information.

° Counselling

Both pre- and post-adoption counselling was not considered a problem with agencies that had qualified staff.

4.2.3 Costs of Adoption Services

- Costs to Adopting Parents

Some concern was expressed that passing the costs of adoption services to the adopting parents could exclude many potentially good parents. The regulation of fees may alleviate this problem to some extent. However, there is no way of avoiding the issue since almost all experts agreed that in a private adoption system, the adopting parents should pay for services rendered. Some of the costs that were mentioned were as follows:

(1) home study: approximately $350;

(2) legal fees for petition and court order: $1,000; and

(3) counselling: approximately $50 to $70 per hour.

4.3 Issues Relevant to all Non-Ward Adoptions in Canada

Many of the respondents referred to issues that were not viewed as being associated with any particular type of adoption system, but rather were thought to be associated with conditions outside the adoption system. These issues are briefly discussed below.

- Success Rates

Many of the respondents indicated that in their experience, agency adoptions, whether private or public, were more successful than private intermediary adoptions. Most of the experts lamented the fact that long-term success information is not available since no long-term follow-up studies of adoption have been conducted.

- Legal Status of the Child

The legal status of a child in a situation where the adoption breaks down before the court order is finalized was a major concern among the respondents. It does not seem reasonable to have the relinquishing mother as the guardian in such situations since she has given consent for the child to be adopted and also may be difficult to locate. However, it was indicated that the relinquishing mother, if available, should have a right to be informed of a placement breakdown, and should be given the opportunity to reconsider her decision to relinquish.

- Timing of the Home Assessment

Only two provinces, Ontario and Manitoba, require that the home assessment of potential adopting parents be conducted before placement of the child in the adopting home. Most of the respondents felt that conducting the home study after placement limited the utility of the study since it would be very difficult to move a child who had already been placed. They felt that to move a child who was already placed would require almost the same documentation as it would to remove a child in need of protection.

4.4 Role of Government in the Private Adoption System

Many of the expert respondents indicated that there should be some type of private adoption system so that relinquishing parents and adopting parents have an alternative to dealing with a government agency. However, they also felt strongly that government should be directly involved in certain aspects of the private adoption process. The level of government involvement which was prescribed as ideal is discussed below.

4.4.1 Setting Standards

Almost all of the respondents felt that the government should take direct responsibility for setting standards for all aspects of the private adoption process. The standards for service were viewed as a major requirement for consistent, high quality service. At a minimum, many felt that standards for private agencies should be set to ensure the following:

(1) counselling to a parent who is considering relinquishing a child;

(2) recruitment of prospective adoptive parents (i.e., establishing a waiting list);

(3) home assessment of adopting parents;

(4) supervision of adoption placements prior to finalization of the adoption order; and

(5) provision of post-adoption services.

4.4.2 Licensing, Accreditation and Monitoring

There was also general consensus that the government should license private agencies. The criteria for licensing should include specific guidelines for the level of qualification of staff to perform specific functions. The respondents felt, for example, that an M.S.W., or a B.S.W. with several years of experience, should be the minimum qualification level for someone who conducts home assessments or performs pre-adoption counselling.

4.4.3 Home Assessment

Most of the respondents felt that the government should be directly responsible for conducting the home assessment since it is the key to ensuring that the best interests of the child are protected. After the home assessment, the government should have the power to eliminate undesirable candidates from the private agency waiting list.

4.4.4 Maintain Adoption Information

Many of the respondents felt that the gathering and maintenance of confidential, long-term information concerning the adoption, as well as follow-up medical information, if available, should not be entrusted to anyone other than government.

4.4.5 Step-parent and Relative Adoption

Most respondents felt that government involvement in both step-parent and relative adoptions should be minimized. It was suggested by several respondents that a home assessment should be performed for a relative adoption if it involved moving a child. However, in a step-parent adoption where the child remains with a biological parent, many respondents felt that a home assessment would be too intrusive and, therefore, was inappropriate.

The only issue of major concern in step-parent adoption was the possibility of infringing upon the rights of the putative father or divorced spouse. It was felt that it would be necessary to obtain consent from the putative father, especially if there was a prior custody or visitation agreement.

4.4.6 Interprovincial and International Adoption

The majority of respondents felt that the government should be notified of both interprovincial and international adoptions. In an interprovincial adoption, respondents felt that a child welfare authority (i.e., a director of Child Welfare) in each province should be notified of the placement. These adoptions could then be referred to the Federal Adoption Desk in Ottawa, which ensures that the standards of the involved governments are met.

4.5 Summary

The information obtained from the expert interviews yielded several specific and consistent findings which are listed below.

- Clear distinctions were made between third-party intermediary adoption systems and private agency adoptions.
- Third-party intermediary adoptions were viewed as being particularly problematic and unsuccessful.
- There was substantial consensus that all adoption systems should be non-profit.
- Little distinction was made regarding the quality of service between government-run adoption agencies and private non-profit agencies. It was indicated that either could do a good job given qualified staff and appropriate regulations, standards, and guidelines.
- Private non-profit agencies were seen as a viable alternative to government agencies. Many felt that the public should have the option of going to a non-government agency.
- Home assessments and responsibility for the maintenance of long-term records were identified as key areas where direct government control should be maintained.
- Setting appropriate standards, and licensing to ensure that qualifications of professions administering direct services were identified as

responsibilities which the government must fulfill in any adoption system.

- Step-parent adoptions were identified as an area where intrusion into the family should be minimized.
- Relative adoptions were seen as needing less intervention than non-relative adoptions. However, a home assessment was identified as being necessary if a child was to be moved.
- There was considerable concern that interprovincial and international adoptions should be reported to the provincial government and referred to the Federal Adoption Desk in Ottawa.

5.0 COMMUNITY CONSULTATION

In an effort to secure input from interested individuals, professionals, and formal organizations within Alberta, the Private Adoption Consultation Committee held hearings in seven locations within the province of Alberta. For the most part, the public response was impressive and yielded a variety of perspectives and recommendations with regard to the respective roles of government and the private sector in the process of private adoption. It should be noted that many of the presentations indicated a considerable lack of knowledge regarding the present adoption laws, policies, and procedures. In fact, many persons were unaware that the current legislation allows for private adoptions to occur in Alberta.

In total, eighty presentations (written and/or oral) were made directly to the Consultation Committee (see Appendix F for a complete listing of the presentations). In addition, thirty-seven written submissions were sent to the Committee (see Appendix G).

While it is always difficult to organize people into discrete groupings in a community consultation process such as this, four major groupings did seem to emerge. Overall, the greatest number of individual presentations came from persons who in some way had either experienced or were presently experiencing the adoptive process. Most of these presentations came from persons who had successfully adopted children and wished to share their views with the Committee. Many individuals and couples who are presently on the adoption waiting list also shared their perspectives and suggestions for change. Although few in number, some adoptees related their personal experiences and thoughts about the adoption process.

The second category of presentations came from people associated with voluntary organizations and/or self-help groups concerned with and involved in specific aspects of the adoption process. Organizations such as the Adoptive Parents Association of Alberta, the Grande Prairie Voice for Life, Birthright, Parent Finders, Triade Society for Truth in Adoption, and the Catholic Women's League of Canada are examples of volunteer organizations and/or self-help groups. In addition, groups participating directly in private adoptions such as Adoption Options, the People's Church, and the Church of the Latter-Day Saints could be included as voluntary organizations.

The third major group of presenters consisted of professionals. This group included those who presented on behalf of Alberta Social Services and Community Health, professional organizations, municipal social services, private social services, hospitals, and lawyers.

The final group, who identified issues and procedures needing special attention, consisted of those representing various Indian bands and Metis child welfare services.

5.1 General Observations

An observation that became abundantly clear early in the community consultation process was that the adoption process carries with it many complex questions and issues. The answers to these questions and the proposed actions for an improved system vary greatly, and in some instances result in conflict. On the other hand, there is significant overlap and agreement in relation to some of the basic questions and philosophical positions offered by many of the presenters.

For example, there is little, if any, disagreement with the principle that the best interests of the child must predominate in the adoption process. There was overwhelming agreement that government must remain involved, at least at some minimal level in the adoption process, even if there is to be an enhancement of the private adoption system. In effect, the question in consideration of private adoption legislation is not whether there should be government intervention, but how much government intervention should there be? Overall, the majority of presenters favoured the retention of a significant role for government in the adoption process, with the recommendation that this system become more flexible by allowing for greater options for the birth parents and adopting parents during the adoption process. Some argued that there was little wrong with the present system; therefore, "If it isn't broken, don't fix it!"

Many who argued in favour of a private adoption alternative suggested strongly that their argument was based primarily on a belief that a more flexible and less bureaucratic option should be available to birth parents and adopting parents. Many who argued for an increased private adoption alternative tended to see it as a solution to the lengthy waiting lists in the public system. Others argued in favour of the private system because of perceived negative experiences with the public system. Some saw a private system as being more humane, with a more flexible set of criteria in assessing and approving adopting parents. There was a tendency among these presentations to focus on the private system as meeting the concerns of the birth mother and the adopting parents with, perhaps, an unintentional understatement of the advantages for the baby in such a system.

Few presenters argued for the total adoption process to be in the hands of private agencies. Only a few presentations supported the use of third-party intermediary adoptions and many argued strongly against this as an alternative.

The majority of the presentations spoke solely to the issues related to private agency adoptions or third-party intermediary adoptions, with only a minority speaking to step-parent, relative and international adoptions. The issues related to these private adoptions will be dealt with following the discussion of private agency and third-party intermediary adoptions.

It is not possible, in a report of this nature, to detail each individual presentation. Rather, a synthesis of the perceived advantages and disadvantages of a private adoption system as they appeared in the presentations is outlined. This is followed by summary observations and comments related to each of the major issues identified in the oral and/or written submissions.

5.2 Third-Party Intermediary and/or Private Agency Adoptions: Perceived Advantages

A number of individuals, couples and organizations argued that there should be amendments to the private adoption legislation in Alberta to elaborate and improve the private adoption system. They identified a number of perceived advantages they felt would result from a private adoption alternative.

The major advantages in third-party intermediary and/or private agency adoptions, as identified in various presentations, are listed below.

Third-party intermediary and/or private adoption agencies:

- provide an alternative to Alberta Social Services and Community Health for the birth mother and adoptive parents. It was felt by some presenters that Alberta Social Services and Community Health did not provide adoption services at a quality level. It was therefore argued that a private adoption alternative was necessary for those birth parents and adoptive parents who did not wish to deal with Alberta Social Services and Community Health.
- provide an option for the birth mother to choose the adoptive parents. It was felt by a significant number of presenters that the birth mother desired and should have greater opportunity to participate in the choice of the adoptive parents. It was argued that a private adoption alternative would both encourage and facilitate greater participation by the birth mother in choosing the adoptive parents. Such participation would ensure the birth mother's wishes regarding culture, religion and ethnicity would be respected.
- provide an option for the birth mother to meet and know the adoptive parents. It was suggested that many birth mothers desire and should be given the opportunity to meet the adoptive parents.
- provide for the adoptive parents to meet and know the birth mother. Some proponents of the private system argued that many adoptive parents wish to meet the birth mother and find out more about her as a person. Further, some argued that such a meeting would lead to a longer term relationship with the

birth mother, which ultimately would allow for many of the adopted child's questions to be answered more accurately in the future.

- provide for a more open adoption process which leads to a greater probability that more birth mothers will carry their babies to term rather than choose abortion as an alternative. From the perspective of those who argued this point, an open adoption system allowed for greater participation by the birth mother.
- are less intrusive. It was argued that the private adoption system would not require the same level of investigative work and would be less regulated than currently exists within the public system. These procedures, particularly as they impact the home assessment, were seen as negative by some presenters. They argued strongly that Alberta Social Services and Community Health asks too many personal questions that have no apparent connection to selecting an appropriate adoptive couple.
- have shorter waiting lists. Private adoption agencies were viewed as having very short waiting lists. It was therefore assumed that if private adoption alternatives were made available waiting lists would remain small.
- are more sensitive and efficient in dealing with the adoption process. Proponents of the private adoption system argued that small private adoption agencies would be more sensitive to the human side of the adoption process. This argument was made in the context of a somewhat less positive view of Alberta Social Services and Community Health. In addition, it was felt that the

size of Alberta Social Services and Community Health meant that the procedures were lengthy, inefficient, and overly restrictive. It was speculated that the private adoption alternative would allow for easier, quicker, and more efficient placement of the baby with the adoptive parents.

- provide for greater confidentiality in the adoption process. Interestingly, the notion of confidentiality was argued as an advantage for the private system as well as the public system. In the present context, some argued that with the smaller private adoption agency there would be less chance of violations of confidentiality because fewer people would be involved.
- provide for counselling opportunities to ensure that the birth mother is made aware of all the options available to her and her baby if she carries the baby to term. It was the opinion of some presenters that many birth mothers are not aware of the positives in relinquishing their baby for adoption and are more often counselled in a manner which leads to the choice of an abortion.

Overall, the stated advantages for a private adoption alternative were framed in the context of the perceived disadvantages of the present system. Few presenters addressed the question of whether many of the perceived advantages of the private adoption alternative could be incorporated within the present Alberta Social Services and Community Health system. In fact, some were quite clear that they wished to circumvent the Alberta Social Services and Community Health eligibility criteria, their regulations, their "long waiting list," and to deal directly with the birth mother. For some, then, the private adoption alternative was seen to be most advantageous because of the perceived ease by which a potential adoptive couple and an available child could be brought together and the adoption completed.

5.3 Third-Party Intermediary and/or Private Agency Adoptions: Perceived Disadvantages

A significant number of individuals, couples and organizations perceived distinct disadvantages in the elaboration of the private adoption system. Generally speaking, these individuals argued in favour of the retention of a predominant role for government (Alberta Social Services and Community Health). Many of these individuals had experienced the current system, or were on the waiting list. They felt they had been dealt with fairly and expressed positive opinions about their social workers.

The major disadvantages in third-party intermediary and/or private agency adoptions, as identified in various presentations, are listed below.

Third-party intermediary and/or private adoption agencies:

- provide few safeguards to ensure that the informed wishes of the parent are respected. It was the opinion of some that this private adoption alternative did not necessarily ensure the participation of the birth mother, let alone whether her wishes would be respected. There would be no guarantee that the birth mother's wishes regarding culture, religion and ethnicity would be respected in the third-party intermediary process.
- provide no assurance that the birth mother has been made aware of the options available to her. Without regulation there is

nothing to ensure that the private adoption system would advise the birth mother of all of her options.

- require a fee-for-service. There appear to be a number of perceived disadvantages related to charging for the adoptive service. Some argued that the agency could not deliver an unbiased and objective service when the maintenance of the adoption agency would be dependent upon the adoptive parents paying direct fees to the agency. Further, it was argued that the success of the agency might well be dependent upon the number of placements finalized, implying that the child's interests might be in jeopardy as an agency attempted to increase its volume of placements.

  Many argued that the private adoption system created a two-tiered system of adoption: one system for higher income earners, and one system for lower income earners. It was never clear as to the total cost of the adoption process; however, most argued that the private system would require the adoptive couple to be responsible for significant costs which are not presently passed on to them.

- have very limited lists of approved adoptive homes. It was the opinion of some that there would be few approved adoptive couples using the private adoption system.

- do not consider matching of adoptive couple and child to be important. Some felt that matching the characteristics of the adoptive couple and the adoptive child was important and should be retained. In order to assure good matching, it was necessary to have a number of potential adoptive couples on a waiting list in order to most effectively match the child's characteristics with the potential adoptive parents.

- do not maintain adequate records. It was felt that small private adoption agencies would not be in a position to maintain consistent, in-depth, and long-term records. Quality recordkeeping was seen to be a responsibility of the Province of Alberta.
- have limited resources available to accommodate mothers or adoptive parents changing their mind. It was felt that Alberta Social Services and Community Health was in a much better position to respond to crisis situations that arise during the adoption process. Since private adoption agencies would not be in a position to place the potential adoptive child in a foster home, or to provide other provisional care, it was argued that Alberta Social Services and Community Health should be involved at the very beginning.
- do not require adequate home studies to be done by qualified professionals. It was felt that the present system required the home assessment to be done after the placement of the adoptive child, leaving little opportunity for denial of the adoption placement. There was doubt expressed that private adoption agencies would hire qualified professional social workers to do the home assessment because of the added expense of the higher salaries paid to these professionals.
- may lead to pressure being placed on the birth mother to proceed with a private adoption. It was argued that many third-party intermediary adoptions are arranged by professional persons perceived to be in positions of power (e.g., doctors,

lawyers). It was assumed that third-party arrangements by such professionals could be seen as pressuring the woman into relinquishing the baby for adoption without adequate time to consider other available options.

- provide no screening of adoptive couples. Many pointed out that third-party intermediary and/or private adoption agency arrangements do not screen the adoptive couples in any manner. This was seen to be most undesirable and did not ensure the best interests of the child were being met. It was further argued that adopting couples may be presented in an unrealistic fashion by either themselves or by the third-party intermediary. In other words, without proper screening, couples could possibly misrepresent themselves in their attempt to obtain a child.
- do not provide pre- and post-counselling options for the birth mother or the adopting couple. In addition, some argued that with the private adoption agency concept, there would be no provision for a pre- and post-placement counselling option for the putative father.
- lack complete confidentiality. Some argued that a private adoption agency would not be in a position to ensure complete confidentiality because nobody could be held accountable, particularly if the agency did not employ professionals.
- serve only those children who are in high demand. Some postulated that the desirable children (e.g., healthy Caucasians) would be adopted through private agencies, while the less desirable (e.g., developmentally and physically handicapped children) would be adopted through the public system.

- will not offer post-adoption services. For example, who will provide the post-adoption registry for adoptive couples, birth parents, siblings and the adopted child?

Close scrutiny of the perceived advantages and disadvantages results in the emergence of several important issues. Central among these is the required minimal role of government in the adoption process. A second major area of concern is the protection of human rights; followed by concerns with regard to the nature and quality of the service delivery; maintenance of accurate information (records); and, most importantly, the cost of the service and its implications for the private adoption system.

5.4 The Adoption Process: Central Issues

5.4.1 Required Minimal Government Intervention

- Accountability

  Using as the basic principle, "the best interests of the child," all presentations either implied or explicitly stated that the government must remain responsible and accountable for the adoption process if this principle was to be adhered to. In other words, while private adoption agencies might be favoured by some, the government must ultimately be held accountable if there was a breakdown in the services.

- Standard Setting Concomitant With the Expectation of Accountability

  Most presenters identified the role of government in setting standards governing the adoption process. Standards were seen to be required in relation to the characteristics of the adopting couple and the procedures for screening all applicants. Standards should be set for ensuring the consistency of home studies, the nature of the information collected, and the control of the information provided. Standards must be set to ensure that qualified persons trained in the adoptions field are responsible for doing the home studies.

- Licensing and Accreditation

Again, there appeared to be consensus among the presenters that government has a required role in selecting and approving adoption agencies only if they meet the standards set by government. Some existing private agencies argued that accreditation by such accrediting bodies as Family Service America and the Child Welfare League of America should be considered appropriate in determining standards for licensing and/or accreditation of adoption agencies.

- Monitoring

Government has a role to play in monitoring adoption agencies to ensure that standards are met and that the rights of individuals are respected.

- Records

Finally, there was general agreement that the government must maintain a system of centralized records. While some did argue that private adoption agencies should maintain their own records, most presenters favoured the government maintaining centralized contemporary and historical records pertaining to all parties involved in the adoption process. With increased movement toward open adoptions and adoption disclosure, it was felt that detailed social and medical information should be taken from the biological parents and retained by the government for reference in future years.

5.4.2 Protection of Human Rights

As a general observation, most presentations identified, in one form or another, the need to protect the rights of the individuals involved in the adoption process. The rights of the child were generally considered to be paramount and, while these were not always explicated, most presenters appeared to assume that the best interests of the child should be the key principle. The rights of the birth mother, putative father and adopting parents were less clear, and presented greater divergence of opinion.

° Rights of the Child

The rights of the child tended to be seen as:

- the right to a secure, nurturing and permanent home (family);
- the right to protection from unnecessary separation from the birth parents;
- the right to a minimum of disruption in human relations during the adoption process; and
- the right to protection of religion and ethnicity.

While it was not seen as a basic right, there was an expression of expectation that the child should be placed with minimum delay with the adopting parents to enhance the so-called "bonding" process.

° Rights of the Birth Mother

The presentations indicated a greater sensitivity and awareness to the rights of the birth mother than has historically been the practice in the adoption process. The three most prominent rights of the birth mother emerged as:

- the right of the birth mother to participate in the decision-making processes involved in adoption;
- the right to choose the appropriate adopting couple; and
- the right to choose a private adoption over a government adoption.

While the majority of the presentations agreed that the birth mother should participate in the decision-making process, particularly as this concerned the choice of adopting parents, there was considerable disagreement as to just how far her rights should extend.

Other rights identified by various presenters were:

- a right to objective counselling regarding the available options for herself and her baby;
- a right to be protected against exploitation during this stressful time;
- a right to confidentiality;
- a right to non-identifying information about the potential adopting families;
- a right to ensure her child be raised within her chosen religious faith;
- a right to ensure that her child be placed with a family of the same cultural and ethnic background as her own; and
- a right to time to consider her decision after the birth of the child (some suggested a time interval of between three and five days be required before adoption consents can be given).

° Rights of the Adopting Parents

The rights of the adopting parents were less frequently identified by the presenters. In fact, it may be fair to state that the rights of the adopting parents, within the context of the adoption process, need to receive greater attention and discussion. This is particularly important as there was a flavour in many of the presentations that the rights of the adopting parents may be in direct conflict with the rights of the birth mother. For example, some argued that the adopting parents had a right to be with the baby at the time of birth in order to begin the "bonding" process. This, of course, has the potential to violate the perceived rights of the birth mother.

Three additional and important adopting parents' rights were identified in the various presentations:

- the right to information about the child and the biological parents, including knowledge of physical and developmental factors relevant to the child's well being;
- the right to assurance that the biological parents will not interfere with the adopting family and the adopted child after placement has occurred; and
- the right to the assurance of confidentiality.

° Rights of the Putative Father

The rights of the putative father were identified by a minority of the presenters. There is considerable disagreement as to whether the putative father has any rights in relation to the adoption process. It is acknowledged that recent court decisions and the impact of the Charter of Rights bear relevance to the discussion on putative father rights. Most presenters, however, tended to view the putative father's role as passive and uninvolved in the adoption process. On the other hand, others argued strongly that the putative father very often was a caring and very interested person whose rights as a parent were being violated. There was an expressed feeling that if the putative father was to be granted rights of consent to adoption, the adoption process would be inhibited significantly. Notwithstanding the conflict in this area, the community consultation indicated that there is substantial reason to argue:

- that the putative father has a right to the custody and guardianship of the child and therefore must consent to the adoption.

Having identified this as a right of the putative father, it might be appropriate to add the qualification offered by some that the consent is required only when the putative father is able to demonstrate a closeness to and significant involvement with the mother and child.

5.4.3 Delivery of Direct Adoption Services

The services required throughout the adoption process can be classified as (1) psychosocial services, (2) health services, (3) legal services and (4) post-placement breakdown services.

- Psychosocial Services

These services include pre- and post-adoption counselling for individuals involved in the adoption process, screening and assessment of potential adoptive parents, the home assessment, matching children with adoptive parents, and educational and/or informational services. Of these services, home assessment and counselling received the greatest amount of consideration in the presentations.

- Home Assessment

The majority of individuals considered the home assessment to be a necessary and integral part of the adoption process. However, some questioned the need for screening, assessment or home studies to be done in the case of a private adoption. It was argued that the mother had the right to place her child in a home of her choosing, and therefore a home assessment should not be necessary.

The majority of presenters saw merit in requiring a home assessment to be completed. Some argued further that the home assessment should be mandatory and completed prior to placing a child with the adopting couple. The present system, which allows for the home assessment to be done after the placement has occurred, was seen as a "rubber stamping" procedure. One group of presenters saw the home assessment as "a reciprocal process of evaluation and education whereby the adoptive applicants and their social worker exchange information and work together to assess their suitability for adoptive parenthood." This description of the home assessment procedure suggests a broader and more positive function of the process. Some argued that private agencies would not be in a position to conduct a thorough and comprehensive home assessment because of the cost of such a service. Overall, the weight of the opinion favoured the retention of a home assessment, preferably to remain the responsibility of Alberta Social Services and Community Health.

- Counselling

There was general agreement that pre- and post-adoption counselling services should be available to all individuals involved in the adoption process. By far the greatest concern was focused on the need for professional counselling for the birth mother, particularly to ensure that she was made aware of the options available to her. There were a number of presenters who argued that many unmarried mothers were not made aware of the adoption alternative for their babies, and perhaps made decisions to abort the fetus based on a lack of knowledge of the available alternatives.

The availability of counselling resources were also seen to be necessary to support the birth mother through her pregnancy and the stressful period of decision-making leading to the surrender of the baby.

Counselling and educational services were seen by some to be essential in assisting the adoptive parents in both the preparation for the adoption and the post-placement phase.

Finally, some argued that the putative father should also have counselling resources available to him, particularly in the pre-adoptive phase.

There was no unanimity of opinion on whether these counselling services should be made available only on a optional basis. Some argued, particularly in the case of the birth mother, that counselling should be mandatory. Others argued that the birth mother should be encouraged to avail herself of counselling, but that it should be her free choice. Counselling for the adoptive parents and the putative father tended to be seen as an optional service to be available on their request.

° Health Services

The provision of health services was raised as an issue most often in relation to extra billing for doctors' fees and for extra costs incurred for specialized medical services. When these services were seen to be required for the care of the mother and fetus, the question was raised as to who would cover the costs in private adoptions.

From a different perspective, some health service providers brought forward concerns related to their role, both morally and legally, in the adoption process. One of these presentations cited a number of case examples where babies were taken directly from the hospital without clear understanding of who actually had legal guardianship and what plans were made for the baby. The concerns identified by these various hospital presentations were not specific to the physical health care of the mother and child; rather, the concerns focused on the rights and responsibilities of health care personnel in protecting the best interests of the child and the rights of the birth mother. Issues related to the lack of regulations governing third-party intermediary private adoptions emerged as the key critical issue identified in the health care submissions. One presentation, which was heard in-camera described, through non-identifiable case material, a number of cases wherein the best interests of the child appeared to be secondary or tertiary to the interests of the birth parent or the adoptive couple. In addition, many of the concerns identified by the health care professionals paralleled those identified in other presentations.

- Legal Services

The role of the legal profession in the private adoption system came under harsh criticism from a number of presenters. Fee charging for legal services when the lawyer acted as a third-party intermediary was the focus of much criticism. Some argued that the legal procedures leading to the finalization of the adoption were fairly straightforward and not demanding on the lawyer's time. The real issue seemed to be a blurring of the roles of legal consultant and intermediary in connecting the baby with the adoptive parents.

There seemed to be considerable confusion among the presenters as to the nature of the various legal documents and procedures involved in the adoption process. Some health care officials complained that they were often unsure of who had custody of the baby at various times because of the use of different legal procedures, particularly in the immediate days after birth. Others argued that the mother might have been pressured to sign legal documents which she did not understand.

There were differences of opinion with regard to the time frame for the various legal steps within the adoption process. For example, some argued that there should be a three- to five-day waiting period before the mother could transfer guardianship to the adopting parents. Others argued that there should be provision made for the immediate transfer of guardianship from the birth mother to the adopting parents. Others argued that the final adoption order should be signed within a matter of weeks after the placement of the child. Others argued that the six-month "probationary period" should be retained.

Finally, some argued for a greater involvement of the Alberta Children's Guardian in ensuring that the legal rights of the child were protected. Two presentations recommended the appointment of a court guardian ad litem to scrutinize all public, third-party and private adoptions. These presenters argued that a social worker acting in this role need answer only to the court and therefore is in a much better position to ensure that the legal process is enacted justly.

- Post-Placement Breakdown Services

Concern was raised by some that the current private adoption system allows the adoptive parents not to finalize the adoption order. The question being, who would be responsible for the protection of the child, the private adoption agency or the government? When this issue was identified, the solution was seen to rest with a government post-placement monitoring or follow-up service.

5.4.4 Costs of Adoption Services

The issue of the cost of an adoption service (who should pay and for what services?) was not clearly dealt with in the presentations. In fact, the actual cost for all the various services, government and/or private, was never actually presented to the Committee. Lawyers' fees were often targeted as being very inconsistent, and in some instances they were identified as being exorbitant. For example, one presenter stated that she and her husband had been told that the legal costs would exceed $3,000. Often, adoptive parents were asked by members of the committee whether they would be willing to contribute to the cost of the adoption process. While the response was most often in the affirmative, most cited an acceptable figure to be less than $1,000.

The significant concern emerging from this discussion relates to the belief that if the adopting couples were responsible for the cost, then babies would be available only to those who had adequate financial resources. Furthermore, desired babies would be made available only to private adoption agencies and the less desired babies, with special needs, would be available only to the government agency. The resulting "two-tiered system" would lead to an inequitable system of adoption within the province.

A final issue related to fee-for-service is a suspicion that if the prospective adopting couple was required to pay for the home assessment and other services rendered by the private adoption agency, then the objectivity would be lost. In other words, if the adoption agency depends for its support on the fees paid by the client, who is being assessed by the private agency, then there is little doubt that the assessment will be positive. In other words, who is going to pay for a negative home assessment?

5.5 Step-parent and Relative Adoptions

Few presenters raised issues related to step-parent and relative adoptions. Those who did make reference to these types of adoptions tended to see a minimum role for government because the child was known to the adoptive parents. A small number of people argued that adoption under these circumstances was not even necessary, particularly in the case of step-parent adoptions where the child remains with one of the natural parents. Alternatively, two persons stated that recent research has indicated that a disproportionate number of reported cases of sexual abuse come from families with a step-parent. In addition, one presentation suggested that there is information indicating a higher incidence of abuse of developmentally handicapped children among relative adoptions. These data were presented in support of an argument for the retention of government involvement in doing a thorough home assessment as a protective intervention.

5.6 Interprovincial and International Adoptions

Again, adoptions of this nature did not occupy the attention of many of the presenters. Where issues were identified, the focus was on the lack of regulations governing the quality of the placement, with little opportunity to evaluate and monitor the placement. Some of those who identified concerns about international adoptions suggested that such adoptions should be severely restricted and under the control of the government.

5.7 Indian and Metis Adoption Concerns

The Committee wishes to acknowledge the special concerns of the Indian and Metis people which were expressed in their verbal and written presentations. In addition, other presentations spoke specifically to the protection of Indian and Metis children's rights to be placed in homes within their own culture. Generally, the submissions from the Indian and Metis people argued in favour of the continued involvement of Alberta Social Service and Community Health in the adoption process. Importantly, these positions were taken within the context of the movement toward greater self-control over the child welfare services of Indian and Metis children. Understandably, as these groups assume greater responsibility for their own children, adoption policies specific to their culture and extended family relationships will need to be identified.

5.8 Summary

The information from the community consultations can be summarized as follows:

- Government must remain involved in private adoptions at least to set standards, license, monitor performance, and maintain records.
- Private adoptions must be done by qualified professionals knowledgeable and experienced in the adoptions field (e.g., professional social workers).
- Third-party intermediary adoptions are not supported by the majority of presenters.
- Private adoption agencies are seen as a necessary option by a significant minority of the presenters but public agency (government) administered adoptions were favoured by the majority.
- Costs of private adoptions remained unclear with some presenters arguing that costs (unspecified) must be the responsibility of the adoptive couple, notwithstanding the possible creation of a "two-tiered" adoption system. The majority, however, indicated that government must continue to cover most of the costs in private adoptions.
- The best interests of the child must be paramount.

- There must be a balanced concern for the rights of the birth mother and adoptive parents. The question of the putative father's rights remained the subject of debate.
- Birth mothers who request participation in the selection of adoptive parents should be given non-identifiable information on prospective adoptive parents and their wishes respected where possible.
- A home assessment was seen to be essential with most arguing that this must be done prior to the placement.
- Pre-adoption counselling must be available to the natural parents and adoptive parents. Many argued that pre-adoption counselling must be mandatory for the birth mother.
- Complete social, psychological, and medical information must be made available to the adoptive couple.
- Confidentiality must be protected for those requesting it.
- Government must remain involved in step-parent and relative adoptions in order to complete the home assessment.
- Few presenters commented on interprovincial and international adoptions. There was some suggestion that government should remain involved on a regulatory basis.
- Indian and Metis adoptions should continue to involve Alberta Social Services and Community Health pending the outcome of specific agreements involving greater self-control over child welfare services by Indian and Metis groups.

6.0 DISCUSSION AND RECOMMENDATIONS

The findings from the three sources of information are compared in this section, a model for private adoption is developed, and specific recommendations are made.

6.1 Key Findings Relevant to Third-Party Intermediary Adoptions

Both the literature review and the information obtained from the interviews with experts identify a number of specific problems with the use of third-party intermediaries in the adoption process. Likewise, the information obtained in the community consultations pointed out a number of issues that were relevant to the third-party intermediary adoption system. However, unlike the experts, many community presenters did not clearly distinguish between third-party intermediary adoptions (arranged by an individual) and private agency adoptions (arranged by an agency). This lack of distinction led to mislabelling of the issues associated with the general concept of private adoption as well as the specific concept of private agency adoptions. Please see Section 1.2 for specific definitions.

Aside from the problem of mislabelling private agency adoption, there was considerable consistency among the three sources of information pertaining to the problems associated with third-party intermediary adoption. First, relative to the rights of the parties involved, the information indicated that third-party intermediary systems tend to serve the interests of the adopting parent rather than the interests of the child. In addition, the data pointed to a lack of concern for the rights of the relinquishing mother to be fully informed of all the options in the case of an unplanned pregnancy, and a lack of concern for the putative father's rights to guardianship and consent to relinquish.

Second, all sources of information highlighted the inadequate and sometimes non-existent aspects of service delivery to clients in a third-party intermediary adoption. The home assessment in this system was perceived as useless, given the conflict of interest which arises from the adopting parent being the client of the person who arranges for the assessment. Pre- and post-adoption counselling was also perceived to be non-existent in third-party intermediary adoptions.

Finally, there was consensus that a third-party intermediary adoption process was very susceptible to being affected by the profit motive. Even if profiting from adoptions was illegal, the lack of government control over third-party intermediary adoptions might increase the probability of profiteering.

6.2 Key Findings Relevant to Private Agency Adoptions

As indicated above, the literature review and information from the expert respondents distinguished clearly between third-party intermediary adoptions and private agency adoptions. However, the presenters at the community forums did not tend to make this distinction as clearly. This lack of clarity caused some confusion about the perceived problems of private agency adoption. Therefore, it is necessary in this section to rely more heavily on the information from the literature review and from the expert interviews.

Private adoption agencies, for the most part, are identified as non-profit organizations which have been delegated to arrange for the private adoption of non-wards. Home assessments and counselling are usually provided directly by agency staff. Very little distinction was made between private agencies and public agencies (i.e., government run) relative to the quality of services offered. The expert respondents felt that either type of agency could do a good job, depending on the level of staff qualifications and the appropriateness of the standards and guidelines.

The major difference between private and public agencies was identified as the responsibility for paying service costs. The respondents indicated that government usually pays for all services in the public system. In the private agency system, adoptive parents are expected to pay on a fee-for-service basis. This aspect of private agencies is sometimes identified as a problem because it may exclude potential adopting parents who cannot afford to pay for the services.

6.3 Key Findings Relevant to Public Agency Adoptions

The data indicate mixed opinions regarding the use of government agencies. This is most obvious in the data obtained from the community forums. The perceived major advantage of public agency adoption is that no costs, or minimal costs, are associated with an adoption. However, this advantage was not clearly expressed in the community forums. There was substantial variation in what the presenters would be prepared to pay for a private adoption.

The main disadvantage of the public adoption system was perceived to be that dealing with a large government bureaucracy was time consuming and frustrating. As a result, there was a clear message from the community forums that people wanted an alternative to a government adoption agency or system. Interestingly, the expert respondents also felt that there should be an alternative to a public system and they viewed the private adoption agency as a viable alternative.

6.4 Findings Relevant to the General Process of Adoption

All sources of information pointed to the paramount importance of the "best interests of the child." Responsibility, accountability, and control by an authority who has the power to protect the best interests of the child were identified as necessary for any adoption system. Thus, there was consensus that the government has a minimal role which must be performed adequately and responsibly.

In addition to protecting the child's rights, the data suggested that a fine balance of the rights of all the parties (i.e., the relinquishing mother and putative father during the pre-placement phase, and the adopting parent after the placement) is very desirable. Finally, there was considerable agreement that the adoption process is a complex life-long process, and not simply a change in legal status.

6.5 Desirable Characteristics of the Private Adoption Process

The conclusions of this study must be viewed within the context of Alberta society and its predominant values. The first three matters to be considered in making decisions pursuant to the Child Welfare Act of Alberta (July 1985) are relevant principles for guiding the formation of conclusions and recommendations. These principles are as follows:

(1) the family is the basic unit of society and its well-being should be supported and preserved;

(2) the interests of the child should be recognized and protected; and

(3) the family has the right to the least invasion of its privacy and interference with its freedom, that is compatible with its own interest, the interest of the individual family members and society.

6.5.1 Characteristics of the Adoption Process

In light of the principles above and the information identified in this report, the conclusions relevant to the characteristics of the overall process of private adoption are listed below.

- There should be an alternative to a total government adoption system.
- Third-party intermediary adoption should not be permitted.
- The private adoption system should be non-profit.
- Government must play an important role which would involve setting standards, licensing, and monitoring the private adoption system.
- Adoption is a life-long process; therefore, information relevant to adoption should be protected permanently by the government.
- Adoption by step-parent and relatives should be less intrusive than adoption by non-relatives.
- All non-relative private adoptions should be administered by a consistent, formalized process.
- The long-term effects of open adoption are not yet apparent. Therefore, further investigation of open adoption is required.

6.5.2 Measures to Protect the Rights of Individuals

- The best interests of the child are paramount and must be protected.
- The relinquishing mother should have access to unbiased counselling to assist her in deciding whether to give a child up for adoption.
- The relinquishing mother should have the right to be involved in the choice of the adopting parent (through non-identifying information). For example, this could include choices relevant to social, cultural and religious heritage.
- The putative father should have the right to guardianship if he is actively involved with the mother and child.
- The adopting parent should have access to information about the child which would be relevant to the child's healthy development.
- The adopting parent should have the right to confidentiality, with respect to the release of identifying information, until the adoptive child reaches the age of majority.

6.5.3 Characteristics of Service

- A high quality, objective, home assessment conducted before placement is very important in protecting the interests of the child.
- There should be mandatory pre-adoption counselling for both the relinquishing mother and the adopting parent.
- Post-adoption counselling should be offered to those who need such a service.

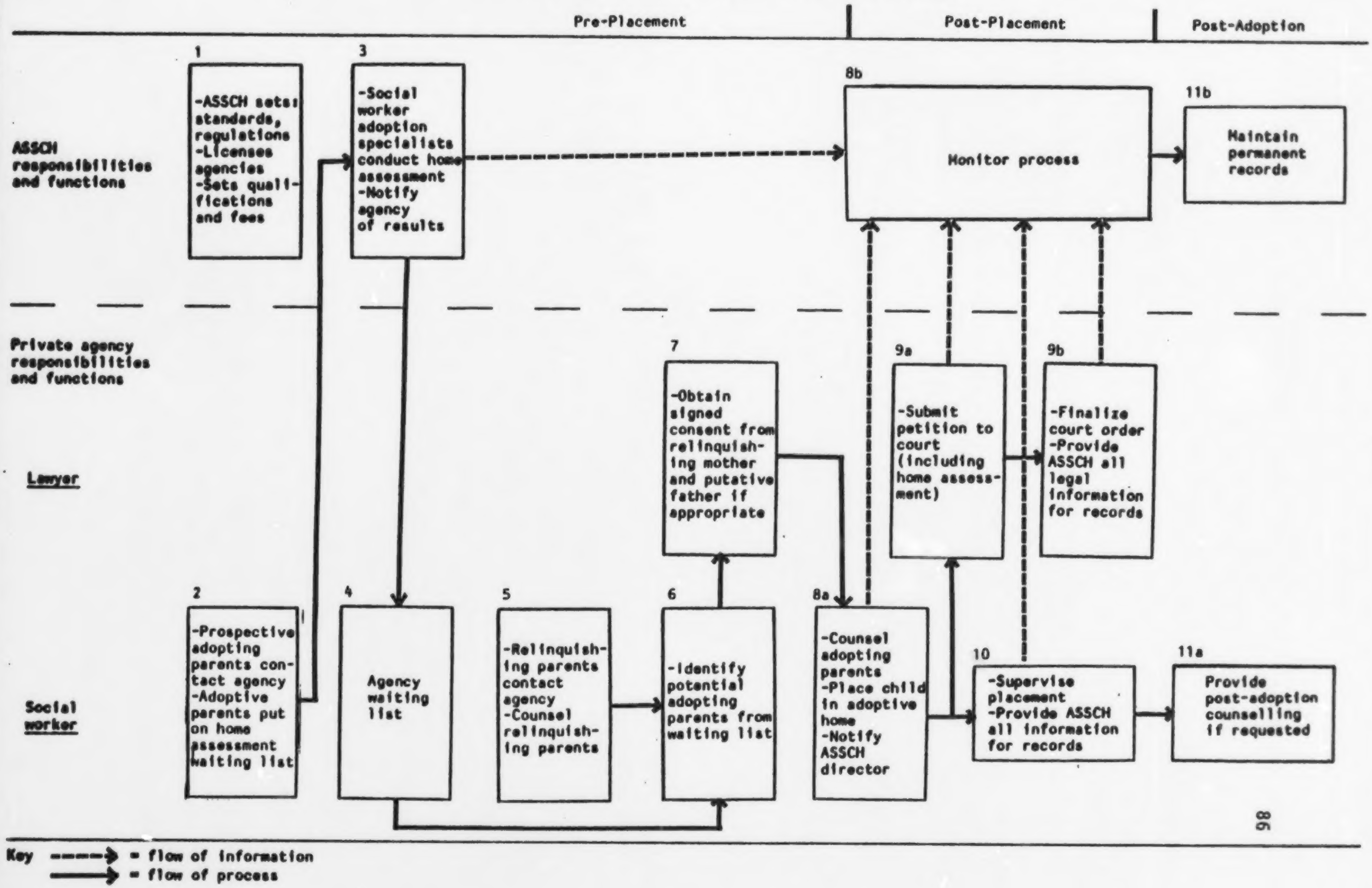
6.6 Recommended Model for Private Adoption

Please note that the recommended system discussed below refers only to the adoption of children who are not the subject of a permanent guardianship order or agreement, whereby the government becomes the child's guardian. Adoptions involving children who are under the guardianship of the government would continue to be processed through the services of Alberta Social Services and Community Health.

Figure 6.1 contains a graphic representation of the recommended system for non-relative private adoption in Alberta. The broken horizontal line distinguishes the role of Alberta Social Services and Community Health from that of the proposed private agency system. The tasks illustrated above the line are the responsibility of Alberta Social Services and Community Health, and those below the line are the responsibility of the private agency. Each box in the model represents the specific roles and responsibilities of the major parties involved in the process of private adoption. Overall, a system is proposed which depends upon private agencies for most of the direct service. In addition, it is proposed that the system be substantially controlled and monitored by government. Government control would be accomplished primarily by licensing and regulating agencies, and by screening the adoption applicants at the beginning of the process prior to their inclusion on an adoption agency waiting list. After the initial screening of applicants, the government would play only a monitoring role. This system provides for a maximum of government control over who adopts, and minimizes the level of government invasion of the privacy of individuals and families involved in the private adoption process.

Figure 6.1

Recommended Adoption Process for Non-Relative Private Adoption


Pre-Placement
Post-Placement
Post-Adoption
ASSCH responsibilities and functions
Private agency responsibilities and functions
Lawyer
Social worker
1
-ASSCH sets: standards, regulations -Licenses agencies -Sets qualifications and fees
3
-Social worker adoption specialists conduct home assessment -Notify agency of results
8b
Monitor process
11b
Maintain permanent records
7
-Obtain signed consent from relinquishing mother and putative father if appropriate
9a
-Submit petition to court (including home assessment)
9b
-Finalize court order -Provide ASSCH all legal information for records
2
-Prospective adopting parents contact agency -Adoptive parents put on home assessment waiting list
4
Agency waiting list
5
-Relinquishing parents contact agency -Counsel relinquishing parents
6
-Identify potential adopting parents from waiting list
8a
-Counsel adopting parents -Place child in adoptive home -Notify ASSCH director
10
-Supervise placement -Provide ASSCH all information for records
11a
Provide post-adoption counselling if requested
Key
= flow of information
= flow of process

Please note that Box 1 of the model recommends that Alberta Social Services and Community Health be responsible for setting standards and regulations for private adoptions, licensing agencies, and setting qualifications and fees. Presumably, a potential private agency would apply to Alberta Social Services and Community Health for a license, would be reviewed and, if the agency met the qualifications, would be permitted to function as an adoption agency. Once the private adoption agency was functioning, parents who wished to relinquish their child for adoption would approach the agency.

As indicated in Box 2, the prospective adopting parents would contact the private adoption agency and inform the agency of their interest in adopting a child. The agency would then notify Alberta Social Services and Community Health, and the adopting parents would be put on a home assessment waiting list.

After notification by the private adoption agency, a director of Alberta Social Services and Community Health would arrange for a home assessment by adoption specialists, as indicated in Box 3. After the home assessment was completed, the agency would be notified of the results. If the potential adopting parents did not meet the requirements of the home assessment, then they would not be eligible to adopt a child and would not be placed on an adoption agency waiting list. If the potential adopting parents were identified as suitable, the adopting parents would be placed on an agency waiting list (see Box 4).

As Box 5 illustrates, the relinquishing parent would contact the agency and would be counselled by an agency social worker with respect to the alternatives available. During this counselling session, the social worker would determine the putative father's involvement. If private agency services are not easily accessible to the relinquishing parent, Alberta Social Services and Community Health should provide counselling.

The next step in the adoption process is outlined in Box 6. This step would involve identifying potential adopting parents from the waiting list. If the relinquishing parent wishes to be involved, the agency should also consult the birth parent regarding the choice of potential adopting parents.

According to the task outlined in Box 7, a lawyer from the private agency, or contracted by the private agency, would obtain signed consent from the relinquishing mother, and the putative father if he has been involved or has a right to consent in the case.

After consent has been obtained, the agency would conduct the tasks outlined in Box 8a. Specifically, this would include counselling the adoptive parents immediately prior to the placement, placing the child in the adoptive home, and notifying a director of Alberta Social Services and Community Health of the placement. Alberta Social Services and Community Health, from this phase until the finalization of the court order, would act only in a monitoring role (see Box 8b).

Soon after the placement has taken place, the legal resources from the private agency would submit a petition to the court which would include the home assessment conducted by Alberta Social Services and Community Health (see Box 9a).

During the time between submission of the petition and the finalization of the court order (see Box 9b), a social worker of the private agency would supervise the placement and provide Alberta Social Services and Community Health with pertinent information for their records (see Box 10). After finalization of the court order, maintenance of permanent records would be the responsibility of Alberta Social Services and Community Health (see Box 11b). The responsibilities of the private agency would consist of providing post-adoption counselling if requested (see Box 11a).

6.6.1 Recommended Model: Costs

As indicated in the findings relevant to private agency adoption, adoptive parents in a private system are usually expected to pay on a fee-for-service basis. However, direct payment by the potential adopting parents for some services, such as counselling to the relinquishing parent and the home assessment, may create a conflict of interest. Thus, in the system illustrated in Figure 6.1, a cost-sharing of the adoption process is proposed.

All services which contribute directly to, or are necessary for, the protection of the child would be paid by government. This procedure would decrease the probability that a conflict of interest might occur. The services which fall into this category are the home assessment (Box 3), the counselling of the relinquishing parent (Box 5), monitoring the process (Box 8b), and maintaining permanent records (Box 11b).

The services which are provided more directly to the adopting parents would be paid by the adopting parents according to a predetermined fee schedule. These required services would include the following: (1) costs associated with the waiting lists (Boxes 2 and 4); (2) costs for legal procedures such as consent, submission of petition, and finalization of court order (Boxes 7, 9a, and 9b); (3)

pre-placement counselling (Box 8a); and (4) supervision of placement before finalization (Box 10). In addition, if the adopting parent requests post-adoption counselling, the cost of the service would be paid by the adopting parent (Box 11a).

The costs to government in the proposed system would probably be less than current levels. This reduction would occur after an initial increase caused by implementation costs. The long-term reduction of costs would be due mainly to the recommendation below to decrease government intervention in step-parent adoptions.

6.7 Recommendations

Specific recommendations regarding the private adoption process, costs, pre-placement issues, post-placement issues, and post-adoption issues are presented below. These recommendations operationalize the model (Figure 6.1) and are based on the findings of this study in conjunction with the principles and characteristics of the private adoption process discussed above.

6.7.1 Specific Recommendations: Adoption Process

1. Alberta Social Services and Community Health should be directly responsible for: (1) setting standards for the private adoption process; (2) licensing private agencies; (3) setting the level of staff qualifications required for licensing; and (4) setting and monitoring the fee structure.
2. Legal fees should also be subject to regulation.
3. Potential non-profit adoption agencies would apply to Alberta Social Services and Community Health for licensing.

4. The private adoption agencies outlined in the recommendations above would be established only on the basis of a non-profit corporate charter.
5. Private agencies would be permitted to advertise services but not specific children.
6. The suggested minimum qualifications for an adoption agency worker would be an M.S.W. with three years of related experience.
7. Alberta Social Services and Community Health must provide equal access to private adoption services for individuals living in rural communities in order to prevent differential service (i.e., provide counselling and liaise with private agencies).
8. Alberta Social Services and Community Health should be responsible for completing a home assessment in non-relative adoptions. The home assessment should be valid for a period of twenty-four months.
9. The home assessment should be completed within ninety days of a private agency notifying Alberta Social Services and Community Health of an application.
10. Step-parent adoptions should be considered primarily a legal matter since the child is living with a biological parent. However, a director must be notified of the intent to adopt.
11. Step-parent applicants should be screened through the Child Abuse Register and the Child Welfare Information System. A home assessment would be recommended only in cases where the applicant has had prior contact with Alberta Social Services and

Community Health in a child welfare matter and a director would have the right to express his concerns in court.[10]

12. A home assessment by Alberta Social Services and Community Health should be required for relative adoptions.

13. The rights of the putative father must be considered in step-parent adoptions, especially if there is a prior custody agreement or some degree of involvement with the mother, or the mother and child.

14. Both interprovincial and international adoptions should involve notifying a director of Alberta Social Services and Community Health. The director would then be responsible for notifying the Federal Adoption Desk in Ottawa in order to ensure that the legislation of the governments involved in the adoption are met.

6.7.2 Specific Recommendations: Adoption Costs

15. All direct services obtained by the adopting parents from the private adoption agency should be paid for on a fee-for-service basis. This would include (1) legal services (i.e., consent, submission of petition, and court costs); (2) counselling; (3) supervision of placement until finalization of order; and (4) costs for being maintained on the agency waiting list.

16. Pre-placement counselling to the relinquishing parents should be paid for by Alberta Social Services and Community Health.

17. The home assessment should be conducted and paid for by Alberta Social Services and Community Health.

18. Alberta Social Services and Community Health should consider establishing a mechanism which would minimize discrimination on the basis of financial ability.

6.7.3 Specific Recommendations: Pre-Placement

19. Alberta Social Services and Community Health should increase its current level of funding for unwed mothers' support programs and improve the quality of service delivery.
20. Pre-placement counselling of the relinquishing parent should be mandatory.
21. Normally, pre-placement counselling for the relinquishing parent should be conducted by a private adoption agency. However, in areas where such a resource is not accessible, Alberta Social Services and Community Health should provide pre-placement counselling services even though the mother is proceeding via private placement.
22. During pre-placement counselling of the relinquishing mother, a check should be made for the involvement level of the putative father. Consideration of the rights of the putative father should not hold up the adoption process.
23. The private adoption agency should be responsible for maintaining a waiting list and matching potential adopting parents with the child being relinquished.
24. The final decision regarding the choice of potential adopting parents should involve consultation with the relinquishing parent. This would involve the sharing of non-identifying information as well as consideration for the relinquishing parent's

wishes pertaining to issues such as social, cultural, and religious heritage.

25. Identifying information can pass between the relinquishing and adopting parents if both parties involved have consented.
26. The private agency should be responsible for notifying a director of Alberta Social Services and Community Health of the intent to match particular adopting parents with a particular child.
27. A pre-placement home assessment must be conducted by an adoption specialist (i.e., qualified M.S.W. with experience in adoption) from Alberta Social Services and Community Health.
28. After the consent becomes valid, guardianship of the child should be vested in the private agency until the adoption order is finalized.
29. The private agency must have temporary placement/shelter resources available (i.e., foster care).
30. A signed consent should be obtained from the relinquishing mother by legal counsel representing the private adoption agency. Consent should also be obtained from the putative father unless the court deems otherwise.
31. Pre-placement counselling should be mandatory for the adopting parents and would be administered immediately prior to placement of the child by a qualified person representing the private agency.
32. Consent should not become valid until three days after the birth of the child.

6.7.4 Specific Recommendations: Post-Placement

33. A child may be placed in the adoptive home when the consent becomes valid.

34. There should be a ten-day waiting period after the consent becomes effective, during which birth parents can revoke consent. After this time, the birth parents' rights should be terminated.

35. The adoption petition should be submitted within six months after placement of the child.

36. The private adoption agency should have the responsibility for supervising the placement during the period prior to finalization of the court order. A home visit every sixty days, or as required, is recommended.

37. The adoption petition should be heard in court within six months after submission of the petition.

38. If a placement breakdown occurs before finalization of the adoption order, the birth parent should be notified and given the opportunity to reapply for custody unless the relinquishing parent has waived this right.

39. A reasonable effort should be made to notify the birth parent that an adoption order has been granted.

6.7.5 Specific Recommendations: Post-Adoption

40. The private adoption agency should be responsible for providing post-adoption counselling if requested by the relinquishing parents or the adopting parents.

41. Alberta Social Services and Community Health should be responsible for maintaining permanent records of the adoption.
42. Alberta Social Services and Community Health should encourage the inclusion and up-dating of medical histories of the relinquishing parents and relatives of the adoptee. This information should be passed on to the adopting parents.
43. Alberta Social Services and Community Health should maintain a passive adoption registry.
44. After the adoptee reaches the age of majority, consent of the adoptive parent should not be required if the adoptee wishes to make an application for disclosure.

NOTES

1. Prior to this Act, non-ward adoptions did not involve the department (Albert, 1980).
2. Provincial legislation is not always specific with regard to third-party involvement. For example, in British Columbia, the lack of legislation making specific reference to intermediaries means that intermediary involvement is, by inference, legal.
3. This is a problem that is also cited as a difficulty in the United States (Meezan, 1978).
4. Charney (1985), on the other hand, reports that in California, approximately 80% of all newborn adoptions are arranged privately, usually through a lawyer.
5. This decline has also been observed in the United Kingdom according to Bean (1984) and in the United States according to Meezan (1978); Kadushin (1980); McTaggart (1980); and Charney (1985).
6. In Canada, except for Ontario, Manitoba, and Nova Scotia, "agency" always refers to a public agency. In these provinces and the United States, "agency" may be either private (voluntary) or public (state-run).
7. This has been well documented in Benet (1976); Meezan (1978); Hepworth (1980); McTaggart (1980); Bean (1984); Charney (1985); and Ferguson (1985) among others.
8. This also implies the child's rights to knowledge about his/her biological parents.

9. An expert on the adoption process in the United States stated that the average cost of an adoption through a private intermediary is $16,500.

10. The recommendation to omit home assessments in step-parent adoptions was based on the following:

    (1) The principle that "the family has the right to the least invasion of its privacy."

    (2) It is impossible to conduct pre-placement assessments since the child is usually living with the family.

    (3) If the home assessment indicates a problem, the child would probably live with the step-parent unless the child were considered to be in "need of protection" under the Child Welfare Act.

    (4) The data available on step-parents who adopt indicate that the probability of an adoptive parent abusing a child is no higher than the probability for a natural parent to abuse a child (Russell, 1984; American Humane Association, 1984).

    (5) Although some concern has been expressed about what appears to be high rates of sexual abuse by step-parents, this concern is often based on subjective data. The most common error seems to be the failure to distinguish between step-parents who live with children and do not adopt, and step-parents who become adoptive parents through a legal process.

REFERENCES

Albert, Barbara, "Adoption in Alberta," unpublished paper, April 8, 1980.

Alberta Social Services and Community Health, Private Adoptions: An Options Paper, April 1985.

Alberta Social Services and Community Health, Program Manual, July 1, 1985.

Alberta Social Services and Community Health, Interprovincial Comparison of Adoption Policies: Private Placements and Adoption Reunions, May 1983.

Alberta Social Services and Community Health, Non-Ward Adoption Study, September 1983.

Amatruda, Catherine S., and Joseph W. Baldwin, "Current Adoption Practice," American Journal of Pediatrics, February 1951.

American Humane Association, Trends in Child Abuse and Neglect: A National Perspective, The American Humane Association, 1984.

Benet, Mary Kathleen, The Character of Adoption, London: Jonathan Cape, 1976.

Bromley, Mary, The Role of Voluntary Societies in Adoption Services," in Philip Bean (Ed.), Adoption, London: Tavistock Publications, 1984, pp. 24-37.

Brieland, Donald, "Selection of Adoptive Parents," in Paul Sachdev (Ed.), Adoption: Current Issues and Trends, Toronto: Butterworths and Co. Ltd., 1984, pp. 65-85.

Charney, Mitchell A., "The Rebirth of Private Adoptions," American Bar Association Journal, 71, June 1985, pp. 52-55.

Children's Home Society of California, The Changing Picture of Adoption, Los Angeles: Children's Home Society of California, 1984.

da Costa, D. Mendes, Studies in Canadian Family Law, Volume 1, Toronto: Alger Press Ltd., 1972.

Ferguson, Evelyn, "Private Adoption in Ontario," unpublished paper presented at the 2nd Conference on Provincial Social Welfare Policy in Calgary, May 1985.

Gallagher, Ursala M., "What's Happening in Adoption?," Children Today, November-December 1975, pp. 11-13, 36.

Goldstein, Joseph, Anna Freud, and Joseph J. Solnit, Beyond the Best Interests of the Child, New York: The Free Press, 1979.

Hepworth, Philip, Foster Care and Adoption in Canada, Ottawa: Canadian Council on Social Development, 1980.

Hoggett, Brenda, "Adoption Law: An Overview," in Philip Bean (Ed.), Adoption, London: Tavistock Publications, 1984, pp. 131-145.

Kadushin, Alfred, "Children in Adoptive Homes," in Harry S. Maas (Ed.), Social Service Research: Review of Studies, Washington: National Association of Social Workers, 1978, pp. 39-89.

Kadushin, Alfred, Child Welfare Services, (third edition), New York: Macmillan Publishing Co. Inc., 1980.

Kornitzer, Margaret, Adoption and Family Life, New York: Humanities Press, 1968.

Lestikow, James M., "Private Interstate Adoptions: There are Special Rules for Bypassing Adoption Agencies," Family Advocate, Volume 26, Number 4 (Fall), 1981, pp. 27-28, 43.

Martin, Amanda Karen, "The Need for Greater Clarity in Private Adoption," Louisiana Law Review, Volume 44, 1984, pp. 845-863.

Martin's Annual Criminal Code, Agincourt: Canada Law Book Limited, 1985.

McNamara, Joan, The Adoption Advisor, New York: Hawthorn Books Inc., 1975.

McTaggart, Lynne, The Baby Brokers, New York: The Dial Press, 1980.

Meezan, William, Sanford Katz, Eva Manoff Russo, Adoptions Without Agencies: A Study of Independent Adoptions, New York: Child Welfare League of America Inc., 1978.

Ministry of Community and Social Services, Licensing for the Purpose of Private Adoption Placement under the Child and Family Services Act, 1984, Ontario, September 1985.

Ministry of Community and Social Services, Disclosure of Adoption Information, Ontario, November 1985.

Ministry of Community and Social Services, The Private Adoption Agency, Ontario, June 1979.

Red Deer Advocate, October 29, 1984.

Reiter, R.C., and V.C. Buttrom, "Current Trends in the Incidence and Treatment of Infertility in the United States," in Surgical Treatment of the Infertile Female, Baltimore: Williams and Wilkins, 1985.

Russell, Diana E.H., "The Prevalence and Seriousness of Incestuous Abuse: Step-fathers vs. Biological Fathers," Child Abuse and Neglect: The International Journal, Vol. 8, Number 1, 1984, pp. 15 - 22.

Ryant, Joseph C., "Some Issues in the Adoption of Native Children," in Paul Sachdev (Ed.), Adoption: Current Issues and Trends, Toronto: Butterworths and Co. Ltd., 1984, pp. 169-180.

Saskatchewan Social Services, The Child and Family Services Act Legislative Proposals Position Paper, January 1985.

Saskatchewan Social Services, Review of the Family Services Act Part Two: Adoption/Foster Care Issues and Proposals, Discussion Paper, November 1983.

Sorosky, Arthur D., Annette Baran, Reuben Pannor, The Adoption Triangle, New York: Anchor Press, 1978.

Tiffin, Susan, In Whose Best Interest? Child Welfare Reform in the Progressive Era, Westport: Greenwood Press, 1982.

LEGISLATION

Alberta, Child Welfare Act, 1985, Edmonton: Queen's Printer.

British Columbia, Adoption Act, 1979, Vicoria: Queen's Printer.

Manitoba, Child Welfare Act, 1974, Queen's Printer of Manitoba.

New Brunswick, Family Services Act, 1980, Frederiction: Queen's Printer.

Newfoundland, Adoption of Children Act, 1972, St. John's: Queen's Printer.

Northwest Territories, Child Welfare Ordinance, 1974, Yellowknife: Territorial Printer.

Nova Scotia, Children Services Act, 1976, Halifax, Queen's Printer.

Ontario, Child and Family Services Act, 1984, Queen's Printer for Ontario (note: Ontario legislated a new Act, November 1985).

Prince Edward Island, Adoption Act, 1974, Charlottetown: Queen's Printer.

Quebec, Youth Protection Act, 1979, Quebec Officical Publisher.

Saskatchewan, Child and Family Services Act, 1978, Queen's Printer of Saskatchewan.

APPENDIX A

TERMS OF REFERENCE

DRAFT

TERMS OF REFERENCE

Project Title: STUDY TO DEVELOP POLICY RECOMMENDATIONS FOR ALBERTA'S PRIVATE ADOPTION PRACTICES AND PROCEDURES

Problem Statement:

- The Child Welfare Act (1984) reduces the role of the Department in private adoption processes from that in the present legislation (CWA, 1966).
- This change in role stems from the principle embodied in the Act which seeks to minimize or reduce the intervention of Government in the private lives of citizens, unless it can be shown that a child is in need of protective services under one of the leads set out in the Act.
- This shift in role has created the perception or concern that the Department's policy in adoption may be inadequate to ensure that the best interests of a child are held paramount in adoption placements and that the Department's diminshed role will leave children at risk by permitting the growth of questionnable placement practices.

BACKGROUND: LEGISLATED ROLES OF THE DEPARTMENT

1. ROLE OF THE DEPARTMENT UNDER THE PRESENT CHILD WELFARE ACT (1966)

1.1 All adoption applications are processed in the form of a petition submitted to the Director of Child Welfare.

2.3 Where the applicants do not proceed to cause a hearing within one year of filing the application to adopt a child who was in the care of the Department, a director may intervene and cause the hearing or withdraw the application.

2.4 Applicants in private adoption required to retain a qualified person (prescribed in regulations) to complete a report for the Court.

2.5 Applicants of children in the care of a director would have the report completed by the Department.

2.6 Applications may be made to the court at any time; however, notice of the hearing must be provided to a director (if the child is not in the care of the Department), the child 12 years old or over, and the guardians at least 30 days before the hearing of the application.

2.7 A director is to receive copies of all reports for private adoptions and may conduct an investigation and make representation to the Court.

2.8 No prohibition on advertising for children for adoption purposes.

2.9 Prohibition against procuring or assisting to procure a child for adoption. Penalty raised to $10,000.00 or 6 months imprisonment.

2.10 No requirement for notification of a private adoption.

3. ROLE OF THE DEPARTMENT UNDER THE LEGISLATION TO BE PROCLAIMED JULY 1, 1985 (INCLUDES AMENDMENTS TO THE NEW CHILD WELFARE ACT, JUNE 1985)

3.1 Reinstates the Department's involvement in all adoptions as all applications are to be made by a petition to be first submitted to a director.

3.2 The Department will also complete reports (home study) for the Courts for all adoptions.

3.3 Relieves the necessity for a hearing for all petitions.

3.4 Relieves the requirement to delay the petition until the child has been in the home of the petitioner for at least 6 months.

3.5 Returns the prohibition against advertising of children, or the desire for children, for adoption.

3.6 Increases the penalty for procuring a child for adoption ($10,000.00).

3.7 Returns the requirement for parties to a private adoption to notify a director of the placement of the child for the purpose of adoption.

3.8 Retains the provision requiring a director to report any favors being passed in an adoption.

TRENDS IN ADOPTION

1. The number of children available for adoption is decreasing.

COMMENTS:

- The stigma of birth of a child out of wedlock started to change during the 1930's resulting in the trend in agencies to have more application to adopt than children for an adoption (North American trend).

- Most adoption applicants have delayed marriage, planning for children, and then adoption (due to attempts to have children naturally). They are therefore most anxious to secure a child and the lengthy waiting lists in all provinces prompts them to consider private adoption as an alternative to Departmental adoptions.

- The decreasing supply of children for adoption raises the concern that they may become a commodity of financial value to adoptive parents (potential selling of infants).

- This becomes an argument in taking a position on other social issues such as abortions, surrogate motherhood, and support services for unmarried mothers.

- This has caused adoption agencies to develop policies regarding the allocation of children for adoption (i.e. limiting family size by placing no more than 2 children in any one family, etc.)

- Encourages doctors, lawyers, etc. to take an interest on behalf of adopting parents who are anxious to have a child (results in these professions becoming involved in private adoptions).

- Causes adoptive parents on the Department's waiting list to raise concerns about private adoption.

2. Privatization of adoptions.

- Increasing private adoptions has prompted the interest in numerous individuals and agencies to become interested in provided private adoption services.

- Interest groups (e.g. members of particular religions) would like to offer adoption services within the community of their religious faith.

- The trend for governments to consider what resources may be provided by the private sector has included those services in adoptions.

ISSUES TO BE ADDRESSED

1. DEPARTMENTAL ADOPTIONS

1.1 Should Alberta consider private agencies to assist in rendering adoption services such as homefinding, matching, pre and post adoption support services?

1.2 Should such agencies or individuals have to be licensed?

1.3 What kinds of standards or qualifications should be required?

1.4 Should payments for services be regulated?

1.5 Should applicants be required to assume greater responsibility for the processing of their applications (i.e. assume some of the costs presently assumed by the Department)?

2. PRIVATE ADOPTION VERSUS THE ROLE OF THE DEPARTMENT

2.1 What is the proper role of the Department in private adoptions?

2.2 Should the Department's involvement be limited to those situations where the child is seen to be at risk?

2.3 Should the Department be involved in private adoptions prior to the placement of the child (i.e. to approve the placement) or merely to process information and react if the child is at risk?

2.4 Should the Department conduct homestudies?

2.5 Should the Department consider private agencies or individuals to assist in the rendering of private adoption services?

2.6 Should such individuals or agencies be licensed?

1.2 All adoption applications require that a report (homestudy) accompany the petition to the Court and that this report be completed by the Director of Child Welfare.

1.3 All adoption applications are filed by the Director of Child Welfare in the Court and a hearing is not required for a petition.

1.4 All petitions cannot be presented to the Court until the child has been in the home of the applicants for at least 6 months.

1.5 Prohibits persons other than the Director of Child Welfare from advertising regarding the private adoption of a child (i.e. that a child is available or desired for adoption).

1.6 Prohibits payments to procure or assist in procuring a child for adoption ($200.00 penalty).

1.7 Require notice to the Director of Child Welfare of the placement of any child privately for adoption. (Both the parent relinquishing the child and the person receiving the child are required to provide notice.)

1.8 Require that the Director report to the court any financial gains or considerations passing to a party to an adoption.

2. ROLE OF THE DEPARTMENT UNDER THE PROPOSED NEW CHILD WELFARE ACT (1984) (PRIOR TO AMENDMENTS, JUNE 1985)

2.1 All applications require a Court hearing.

2.2 All applicants to be responsible for making their own application to the Court (applicants would require a lawyer to represent the applicants in all cases).

2.7 What standards or qualifications should be required?

2.8 Should fees for service be regulated?

2.9 What responsibilities should applicants assume in processing private adoptions?

2.10 Should the Department provide ancillary services such as counselling?

3. ADDITIONAL ISSUES

3.1 INTER-PROVINCIAL PLACEMENTS

- Should the department attempt to control/monitor the private placement of children for adoption outside of Alberta?

3.2 RELATIVE VS STEPPARENT ADOPTIONS

- Should these adoptions be facilitated with minimum involvement by the Department and the Courts?

- Should these adoptions be exempted from some of the provisions required in all adoptions?

3.3 SERVICES TO RELINQUISHING PARENTS

- What kinds of safeguards and supports should be available to ensure that the true informed wishes of the parents are respected in adoptions?

- What role, if any, should relinquishing parents have selecting adoptive parents in the matching process conducted by the Department?

- What kinds of compensation or payments (e.g. medical fees) should be acceptable for relinquishing parents?

- What needs to be done to protect relinquishing parents against inducements and/or pressure tactics?

3.4 GUARDIANSHIP ISSUES

- How should the guardianship questions raised by the Charter be addressed?

- How should the guardianship issue prior to an adoption order being granted be addressed?

3.5 PUBLIC AWARENESS

- How can the Department best inform the public about the procedure requirements etc. involved in private adoption?

4. PROJECT OUTCOME

4.1 o Report to Minister outlining recommendations for policy and/or legislative revision.

METHODOLOGY

See attached work plan.

WORK PLAN

ACTIVITY	RESPONSIBILITY	START DATE	END DATE	OUTPUT
Develop Terms of Reference				
1.1 Draft	Staff	June 10	June 17	
1.2 Review with Advisory Committee/ brief Committee re issues	Staff		June 17	
1.3 Obtain Committee input into Terms of Reference	Staff	June 17	June 28	Draft Terms of Reference
1.4 Finalize Terms of Reference	Staff	June 28	July 5	
1.5 Child Welfare Implementation Project review Terms of Reference	CWIP		July 12	
1.6 Review Terms of Reference with Minister	Staff, Committee		July 19	Final Terms of Reference
Contract with Consultant				
2.1 Determine budget	CWIP		Week June 17	
2.2 Recruit	Staff		July 12	Consultant on board
2.3 Assign tasks/instruct consultant	Staff		July 22	Ongoing
Data Collection				
3.1 Identify issues/design a consultation process	Staff, Consultant	July 22	Ongoing	
3.2 Review current cross jurisdictional literature/policies/legislation	Consultant	Aug. 1	Aug. 30	
3.3 Prepare/present paper re issues and options	Consultant, CWIP, Committee		Sept. 1	Paper, consultation, work pla

ACTIVITY	RESPONSIBLITY	START DATE	END DATE	OUTPUT
3.4 Review paper and approve consultation	CWIP Committee Minister		Sept. 13	
Consultation				
4.1 Informal	Consultant Staff Committee CWIP	Oct. 1	Nov. 29	Consultation feedback document
4.2 Formal				
4.3 Consolidate/analyze consultation feedback	Consultant Staff Committee CWIP	Nov. 29	Dec. 15	Final positions
Develop Report/Policy Proposals				
5.1 Draft report	Consultant			
5.2 Review draft	CWIP Committee	Dec. 15	Dec. 31	
5.3 Final report/recommendation to Minister			Jan. 15/86	Report

APPENDIX B

INTER-PROVINCIAL COMPARISON

Inter-Provincial Comparison of Legislation Covering Private Adoption

	Newfoundland	Nova Scotia	Prince Edward Island
Are private placements allowed?	Yes	Yes	Yes
Who can arrange a private placement?	- Parents (only with a relative)	- Parents - Intermediary - Private Agency (non-profit)	- Parents - Intermediary
Is an intermediary allowed to collect a fee for services?	-	No Sec. 14(3)(a)	No Sec. 24(1)
When can consent for adoption be given?	Consent becomes valid 7 days after birth Sec. 9.2	Consent can be given before birth, but has no effect until 15 days after birth Sec. 16(3A)	Consent becomes valid 14 days after birth Sec. 6(6)
Is the consent of the putative father required?	No Sec. 9(1)(b)	No - if the child is illegitimate, the father's consent is not required Sec. 16(3)	No - if the child is illegitimate, the father's consent is not required Sec. 6(1)(d)
Can a consent be revoked?	Within 21 days after consent is given Sec. 9(8)	No specific legislation - consent can be revoked at any time prior to finalization of order	The mother can withdraw consent within one month Sec. 9(1)
Who assumes guardianship of the child until the adoption is finalized?	Relinquishing mother	Relinquishing mother	Relinquishing mother
When is the Ministry notified of a private placement?	Within 6 months of placement Regs 8(4)(b)	Within 10 days of placement Sec. 14(1)	Within 30 days of surrendering custody Sec. 26(1)
Is a home assessment required?	A home assessment may be requested by the court Sec. 10	Yes Sec. 20(2)	Yes Sec. 4(2)
Who is responsible for the home assessment?	Ministry	Ministry/Agency	Ministry
Is the home assessment done before or after a placement?	After	After	After
Is there a time period for completion of the final order?	No time period specified	No time period specified	A petition must be heard within 12 months of its being signed Sec. 15

Inter-Provincial Comparison of Legislation Covering Private Adoption (continued)

	New Brunswick	Quebec	Ontario
Are private placements allowed?	Yes	No Placement by Centre of Social Services only	Yes
Who can arrange a private placement?	- Parents	-	- Private Agency (non-profit) - Intermediary
Is an intermediary allowed to collect a fee for services?	-	-	Yes Payment of prescribed expenses and legal fees Sec. 159
When can consent for adoption be given?	Consent can be given at any time but has no effect until 7 days after birth Sec. 76(5)	-	Consent shall not be given until the child is 7 days old Sec. 131(3)
Is the consent of the putative father required?	No - consent is required if he has signed the birth reg. or stat. declaration has been filed (FSA)	-	No - if recognized, the father must be informed of intent Sec. 131(1)
Can a consent be revoked?	Consent may be revoked at any time before adoption order is made Sec. 77(1)	-	Consent may be withdrawn within 21 days Sec. 131(8)
Who assumes guardianship of the child until the adoption is finalized?	Relinquishing mother	-	Licensee Sec. 131(5)
When is the Ministry notified of a private placement?	Non-relative - 30 days prior to placement; newborn - 15 days after placement Sec. 73(1)	-	Within 30 days of placement Sec. 135(6)
Is a home assessment required?	Yes Sec. 67(2)	-	Yes Sec. 136(1)
Who is responsible for the home assessment?	Ministry	-	Licensee
Is the home assessment done before or after a placement?	After	-	Before
Is there a time period for completion of the final order?	An application must be disposed of within 30 days after it is made Sec. 81(2)	-	Within 12 months of an application being signed Sec. 145(3)

Inter-Provincial Comparison of Legislation Covering Private Adoption (continued)

	Manitoba	Saskatchewan	Alberta
Are private placements allowed?	Yes	Yes	Yes
Who can arrange a private placement?	- Parents - Intermediary - Private Agency	Parents	- Parents - Intermediary
Is an intermediary allowed to collect a fee for services?	No Sec. 97	-	No Fees and expenses only Sec. 71(2)
When can consent for adoption be given?	Consent may not be given until 10 clear days after birth Sec. 85	No specific legislation Consent may be given at any time	No specific legislation - consent given at anytime but child must be 10 days old Sec. 63(2)
Is the consent of the putative father required?	No - if recognized, the father must be informed of intent Sec. 83(5)	No Sec. 52(1)	No - if recognized, the father must be informed of intent Sec. 60(1)
Can a consent be revoked?	Consent may be withdrawn at any time prior to finalization of adoption order Sec. 87	Within 30 days after execution of consent Sec. 52(4)	No specific legislation - consent can be revoked at anytime prior to finalization of order
Who assumes guardianship of the child until the adoption is finalized?	Relinquishing mother	Relinquishing mother	Relinquishing mother
When is the Ministry notified of a private placement?	The Ministry must be notified prior to the placement Sec. 102(1)	Ministry must be given 30 days notice of intent to petition for order of adoption Sec. 57(1)	Within 30 days of placement Sec. 56.4(1)
Is a home assessment required?	Yes Sec. 102(4)	A home assessment may be requested by the court Sec. 56(5)	Yes Sec. 56.1(2)
Who is responsible for the home assessment?	Ministry/Agency	Ministry	Ministry
Is the home assessment done before or after a placement?	Before	After	After
Is there a time period for completion of the final order?	Within 12 months from the date of the placement Sec. 102(7)	A petition for adoption must be made within 1 year of placement Sec. 56(2)	Within 6 months of petition being signed Sec. 56.2(1)

Inter-Provincial Comparison of Legislation Covering Private Adoption (continued)

	British Columbia
Are private placements allowed?	Yes
Who can arrange a private placement?	- Parents - Intermediary - Private agency
Is an intermediary allowed to collect a fee for services?	Can charge only with court authorization Sec. 15(1)
When can consent for adoption be given?	Consent cannot be executed until the child is 10 days old Sec. 8(5)
Is the consent of the putative father required?	No Sec. 8(1)
Can a consent be revoked?	No Sec. 8(7)
Who assumes guardianship of the child until the adoption is finalized?	Relinquishing mother
When is the Ministry notified of a private placement?	Within 14 days of placement Sec. 6(1)
Is a home assessment required?	Yes Sec. 6(3)
Who is responsible for the home assessment?	Ministry
Is the home assessment done before or after a placement?	After
Is there a time period for completion of the final order?	No time period specified

APPENDIX C

EXECUTIVE SUMMARY

EXECUTIVE SUMMARY OF PRIVATE ADOPTIONS:

A REVIEW OF RELATED ISSUES

1.0 Introduction

The Child Welfare Act of Alberta (1984) proposed to reduce the role of Alberta Social Services and Community Health in the private adoption process with the intent to minimize the intervention of government in the private lives of citizens. However, concerns have been expressed that such a legislative provision may inadequately protect the best interests of the child relative to appropriateness of private placements. In response to these concerns, the Act was amended to maintain the status quo. A review of academic and government literature has been conducted, as part of a larger study, in order to determine the issues associated with private adoptions.

1.1 Definitions and Focus

Adoption, in the general sense, is a legal status created by a court order which constitutes a relationship of parent to child between persons not so previously related. The adopting parent(s) becomes the parent(s) with all rights and duties to the adopted child "as if" that child had been born to the parent(s).

The concept of private adoption is a special type of adoption which involves specific conditions outlined below:

- The Adoptee

  In private adoptions, the child is placed for adoption by the parent(s) and/or guardian(s) and is not the subject of a permanent guardianship order or agreement whereby the government becomes the child's guardian.

- The Adopting Parent(s)

  Private adoption usually refers to a parent(s) and/or guardian(s) placing a child (either directly or through a third party) with an adopting parent(s) who is neither a relative of the child nor a new spouse of the biological parent. In contrast, step-parent adoption is defined as the adoption of a child(ren) by a new spouse of the biological parent. Relative adoption is defined as the adoption of a child(ren) by a relative of the biological parent.

- The Adoption Process

  Private adoption can be defined as an adoption placement which is arranged without the help or involvement of a government agency. Private adoption may be arranged directly by the biological parent(s) with the adopting parent(s). Alternatively,

> private adoption may be arranged either through intermediary individuals, such as doctors or lawyers, or through intermediary non-government agencies. Adoptions arranged through intermediary individuals are usually called third-party adoptions, while adoptions arranged through intermediary agencies (profit or non-profit) are called private agency adoptions.

The major focus of this review is to examine the extent to which government should be involved in private adoptions. Thus, this review primarily considers the issues associated with private adoption in general. In addition, however, the question of government involvement in the process of both step-parent adoption and relative adoption will be addressed.

2.0 The Process of Private Adoption in Alberta

2.1 The Child Welfare Act (1966 - June 1985)

The Child Welfare Act of Alberta from 1966 (with amendments up to 1977) to June 1985 mandated a great deal of responsibility and control over the process of private adoptions to the Director of Child Welfare. The adoption process began with an application in the form of a petition submitted to the Director of Child Welfare. The Director was then responsible for filing the adoption application in court within six months. The Director of Child Welfare was also responsible for completing a home study which was submitted with the petition to the court. Thus, unless unusual circumstances existed, the adopting parent(s) had very little direct involvement and responsibility in the private adoption process.

In addition to mandating the high level of direct government involvement in the private adoption process, the Child Welfare Act of 1966 required a placement probation period of six months, prohibited non-government advertising of children for adoption, prohibited payments to procure a child for adoption, and required that the Director of Child Welfare be notified of any placement for adoption by both the biological parent(s) and the adopting parent(s).

2.2 The Proposed New Child Welfare Act (Bill 35, 1984)

The new Child Welfare Act (1984) proposed a great reduction in the government's direct involvement in the private adoption process and an increase in the responsibilities of the applicant(s). Under this proposed legislation, all applications would require a court hearing. Application to the court would be the responsibility of the applicants and they would require legal representation. Further, the applicants would be responsible for notifying a director of Child Welfare and the child's guardian at least thirty days before the hearing of application.

Unlike the previous legislation, the new Act did not propose prohibiting advertising for children for adoption, nor did it require notification of a private adoption placement to a director. However, it did propose prohibiting procuring a child for adoption.

2.3 The Proclaimed Child Welfare Act (July 1985)

The proposed shift in the role of the government in private adoption was quickly identified as an area of public concern and subsequently sections 57, 58, 59, and 62 of the proposed new Act were not proclaimed, pending further study. Thus, the Department's prior involvement in all adoptions has been retained with only minor changes. Currently, a director is responsible for completing investigations and submitting reports to court. Further, a director must be notified when a child is placed for adoption or received for adoption, and the penalty for procuring a child for adoption has been increased to $10,000. However, it is no longer necessary for court hearings on all petitions and the six-month probation period has been waived.

3.0 The Extent of Private Adoption in Canada

In all Canadian provinces except Quebec and Newfoundland, adoption legislation permits some type of private placement for children who are not the subject of a guardianship order or agreement. Further, in all cases, the governments are actively involved in the adoption process. However, the stage at which the government becomes involved in the adoption process varies from one province to another. Provincial legislation also varies with regard to the involvement of third-party intermediaries. For example, Saskatchewan prohibits third-party intermediaries, while in New Brunswick the use of third-party intermediaries is not prohibited, but is actively discouraged. Alternatively, in Ontario the law requires that a third-party intermediary be involved in arranging private adoptions.

The frequency of private adoption in Canada has increased steadily over the last decade even though the number of children available for adoptions, other than step-parent adoptions has decreased. Currently, it is estimated that approximately twenty-five percent of all adoptions other than step-parent adoptions are independent of government social agencies. In 1982, the number of private adoption placements in Alberta increased to 160 cases, representing seventeen percent of the total number of adoptions of children who were not the subject of a permanent guardianship order or agreement.

4.0 Factors Contributing to the Use of Private Adoptions

Both social and government agency factors have been cited as contributing to the increase in the use of private adoptions.

4.1 Social Factors

During the 1950s and 1960s in Canada, the number of children available for adoption increased. At that time, a major concern of adoption agencies was a shortage of people willing to adopt. Since the 1970s, adoption agencies have witnessed a dramatic decrease in adoptable children. The "baby shortage" has been associated with a number of factors. First, the availability and widespread use of contraceptives has reduced the number of births. Second, abortion has been increasingly utilized. Third, a large majority of unwed mothers are keeping their children. Fourth, research has indicated that there is an increasing number of people who are infertile. As a result, there is an excess in the number of applicants for adoption relative to the number of children available.

4.2 Agency Factors

It has been suggested that government or public agency policies have also contributed to the overall decline in the number of children available in agency adoptions. Public agencies have been perceived by some as impersonal, bureaucratic, intrusive, slow to provide the adoption service, and inflexible in terms of their adoption process. Lengthy waiting lists with public agencies also prompts anxious adoptive applicants to seek alternatives to the public agency process. On the other hand, independent or private agencies have been viewed as providing a more confidential, more personalized, and less intrusive service to the adopting parent(s). In addition, it is believed that private agencies are able to find a child or infant for the adoptive parent(s) much faster than public agencies.

5.0 Issues Associated with Private Adoption

Issues have been raised with regard to the lack of legislation and regulation in the private adoption process in Canada and the United States. These issues can be divided into three categories: those relevant to the child; those relevant to the biological parent(s); and those relevant to the adoptive parent(s). To a large extent, these issues are not perceived to be associated with step-parent or relative adoptions. They are, however, concerns associated with private adoptions where a third-party intermediary (either a private individual or a private agency) is involved.

5.1 Issues Relevant to the Child

- Inappropriate Placement

  A primary concern of adoption is to determine what is in the "best interests of the child" in terms of permanency, physical well-being, and emotional adjustment. Ultimately, this involves an assessment of the prospective adoptive parent(s) and the home environment. Concerns have been expressed about the completeness of home assessments conducted by private agencies. An additional concern is the competence of individual third parties to conduct home assessments and make appropriate placements. Associated with this latter concern is the issue of a conflict of interest in those cases of adoptions for profit. A third party may not have the best interests of the child in mind, but rather the expedient processing of an adoption order.

  Privately arranged international adoptions (where a child is placed out of the country or brought in from another country to be placed) are also an expressed concern with regard to the child.

- Placement Breakdown

  Very little conclusive data are available which compare the relative success of public agency adoptions with that of privately arranged adoptions. Some studies in the United States have suggested that public agency success rates are higher than those of private adoptions. Similarly, an Ontario study conducted in the mid 1970s suggested that public agency adoptions were slightly more successful. However, more recent data from Ontario indicate that private adoptions are just as successful as those processed by public agencies.

- Two-Tiered System

  A criticism of private adoption has been that it results in a two-tiered adoption system which divides children into two groups. Children in high demand (healthy, Caucasian infants) are serviced primarily by the private system and children with special needs tend to be serviced by government agencies. There is also concern that the private system will cater to the adopting parent(s) who is financially able to afford a child. In the United States, for example, private adoptions tend to cater to the adopting parent(s) who is Caucasian and of a high socio-economic status. Thus, the major concern is that the focus of the private system may be the adopting client, rather than the best interests of the child.

- Legal Status

  Under the present Act, the privately adopting parent(s) is under no legal obligation to proceed with the adoption. In some cases, the parent(s) has refused to take the child (whose placement is often arranged before birth), leaving the biological mother with an unwanted child. In other cases, the adoptive parent(s) has taken the child, but has not finalized the adoption order. As a result, there is a concern that the child is in a state of limbo, i.e.; he or she has no legal guardian or rights to inheritance unless the adoption formally takes place.

5.2 Issues Relevant to the Biological Parent(s)

- Exploitation

  The adoption decision has been cited as a stressful period of time. There is some concern that intermediaries are not trained to provide counselling to surrendering mothers (the majority of whom are adolescent and unmarried) regarding the adoption process in and of itself, and may not suggest alternatives to adoption. Additionally, there have been concerns that the biological parent(s) is vulnerable to "pressure tactics" by intermediaries who have already arranged the placement of an unborn child. The issue of the putative father's rights has also been raised with regard to the private adoption process.

5.3 Issues Relevant to the Adoptive Parent(s)

- Incomplete Information

  The adoptive parent(s), in order to provide adequate care for the child, has a right to appropriate and accurate information about the child's background. There has been a concern expressed that the adoptive parent(s) in a private adoption process often receives an incomplete or biased social history of the child to be adopted.

- Costs

  The privately adopting parent(s) is also responsible for direct costs associated with a private adoption. These costs include fees to the intermediary, payment for a professional home assessment, and legal costs. There may also be costs related to medical care of the biological mother prior to and after the birth of the child.

- Marketplace

  Although not confirmed by research, there is a perception that private adoptions could lead to a marketplace system characterized by baby selling where the highest bidder buys the most desirable child.

6.0 Questions for Discussion

The issues outlined above led to a series of questions relative to the process of adoption and the rights of the three parties involved which must be answered before Alberta Social Services and Community Health can determine what role, if any, it should play in private adoptions in Alberta in the future. These questions are posed in order to provide readers with general parameters to guide responses to this summary review.

6.1 Process of Private Adoption

- Should Alberta Social Services and Community Health consider private agency and/or third-party resources to assist in adoption services?

- Should Alberta Social Services and Community Health intervene in the adoption process prior to placement (i.e., be responsible for home assessment and matching)?

- Should Alberta Social Services and Community Health intervene in the adoption process after the placement (i.e., merely as a monitoring function)?

- Should Alberta Social Services and Community Health perform only a record-keeping function in the adoption process?

- Should Alberta Social Services and Community Health be responsible for developing standards for the adoption process if private adoption is used (e.g., for performing home study)?
- Should Alberta Social Services and Community Health be responsible (financially) for training and certification of private adoption resources?
- Are private agency resources readily available in Alberta communities?
- Are third-party resources readily available in Alberta communities?
- Should private agencies and/or third-party intermediaries (individuals) be able to profit from their involvement in the adoption process, or should they only be able to recover costs?
- Should payments for adoption-related services be regulated?
- What should be the minimum level of qualification for private agencies?
- What should be the minimum level of qualification for third-party intermediaries?
- Should there be a limit imposed on the number of agencies or individuals licensed?
- Should there be a limit imposed on the number of adoptions that a third-party individual may facilitate?
- If a private adoption system is used, who should be responsible for the collection, maintenance, and confidentiality of adoption information?
- Should relative and step-parent adoptions be facilitated with minimum involvement by Alberta Social Services and Community Health and the courts?
- Should relative and step-parent adoptions be exempted from some of the provisions required in all adoptions?

6.2 The Child

- Should Alberta Social Services and Community Health intervene only when the best interests of the child are at risk?
- Who should be responsible for ensuring that the child's social, cultural, and religious heritage is protected?

- Should private adoption placement outside Alberta be controlled and/or monitored by Alberta Social Services and Community Health?

- Should Alberta Social Services and Community Health intervene if the adoptive applicant(s) fails to proceed with an application to the court for an adoption order?

6.3 The Relinquishing Parent(s)

- What kinds of safeguards and supports should be available to ensure that the true, informed wishes of the parent(s) is respected in adoptions?

- What role, if any, should the relinquishing parent(s) have in selecting the adoptive parent(s) through the matching process conducted either by the Department, the private individual, or a third-party intermediary?

- What kinds of compensations or payments (e.g., medical fees) should be acceptable for the relinquishing parent(s)?

- What needs to be done to protect the relinquishing parent(s) against inducements and/or pressure tactics in a private system?

- Should Alberta Social Services and Community Health provide pre- and post-adoption counselling to the surrendering parent(s), under and over eighteen years of age?

- What should be done about the guardianship rights and interests of the relinquishing parent(s) if the adopting parent(s) fails to proceed with the adoption?

6.4 The Adopting Parent(s)

- Should the adopting parent(s) assume greater responsibility for the costs of processing the application?

- What needs to be done to ensure that the adopting parent(s) receives adequate information about the child placed for adoption?

- Should counselling be provided for the adopting parent(s) if requested?

APPENDIX D

INTERVIEW PROTOCOL

EXPERT INTERVIEW PROTOCOL

1.0 Introduce Study - ASSCH

- four issues in the literature have been identified. These include:
  - issues relevant to the child
  - issues relevant to the relinquishing parents
  - issues relevant to the adoptive parents
  - issues relevant to process

2.0 General Issues

2.1 What is your opinion of the concept of private adoption?

2.2 Should there be a public (government) role in private adoptions?

What should this role be?

2.3 What is your opinion on private adoptions arranged by a third-party as opposed to those arranged by a private agency?

2.4 What is your opinion on profit versus non-profit private agencies?

3.0 Issues Relevant to the Child

3.1 There is a concern, in the literature, in terms of third-party adoptions, about inappropriate placements especially with regard to conducting the home assessment. What is your opinion on this issue?

3.2 The literature suggests that public agency placements are slightly more successful than private agency placements. In your experience, have you found this to be true?

To what do you attribute successful placements? Unsuccessful placements?

3.3 There is a concern especially with private adoption that the legal status of a child may be in limbo if an adoption order is not finalized. Do you have any comment on this issue?

3.4 There is the concern that private adoptions will result in a two-tiered system, where children with special needs are served by the public system and children in high demand are served by the private system. What is your opinion on this issue?

Can you think of ways to deal with the two-tiered system?

3.5 Can you think of any other issues that would be specifically relevant to the best interests of the child in the area of private adoptions?

4.0 Issues Relevant to the Relinquishing Parents

4.1 One issue that is mentioned frequently in the literature in terms of the relinquishing parent is the possibility of exploitation and pressure tactics used to induce the mother to surrender a child. What is your opinion on this issue?

4.2 The literature also mentions that in privately arranged adoptions, the rights of the putative father are frequently ignored. Do you have any comments on this issue?

4.3 Do you feel that the relinquishing parents should have any input into choosing the adoptive parents?

4.4 Do you feel that private agencies should provide counseling services to the relinquishing parents?

4.5 Can you think of any other issues that would be specifically relevant to the relinquishing parents in the area of private adoptions?

5.0 Issues Relevant to the Adoptive Parents

5.1 In terms of issues relevant to the adopting parents, one issue that has been emphasized with respect to private adoptions is the inadequacy of information (i.e., background of the child) given to the adopting parents. Do you have any opinion of this?

What kinds of information should be provided?

Should private agencies be mandated to provide certain information?

5.2 An additional issue has been that the relinquishing parents may have a great deal of information about the adoptive parents and that this may create a problem for the adoptive parents and the child. What is your opinion of this issue?

5.3 What kinds of costs or payments should the adoptive parents be responsible for in a private adoption?

5.4 Do you feel that private agencies should provide counseling services to the adoptive parents if requested?

5.5 Can you think of any other issues that would be specifically relevant to the adoptive parents in the area of private adoptions?

6.0 Process Issues

6.1 What types of qualifications should a third-party or private agency have?

6.2 Do you think they should be licensed?

6.3 Who should be responsible for licensing?

6.4 Do you feel that the government should play a role in private adoptions?

At what level of process should the government be involved?

6.5 What is your opinion of relative or step-parent adoptions in terms of the private adoption process?

6.6 Are there any other issues or comments that you may have on private adoptions?

APPENDIX E

LIST OF EXPERTS

British Columbia

Pat Murray
Deputy Manager
Family and Children's Services
Victoria, British Columbia

Hank Vanderpol
Adoption Coordinator
Family and Children's Services
Victoria, British Columbia

Alberta

Anne Scully
Program Manager
Adoption Services
Alberta Social Services and
Community Health
Edmonton, Alberta

Keith Owen
Director of Child Welfare
Alberta Social Services and
Community Health
Edmonton, Alberta

Saskatchewan

Linda Ens
Program Manager
Foster Care & Adoption Services
Regina, Saskatchewan

Otto Driedger
Director of Social Work
University of Regina
Regina, Saskatchewan

Manitoba

Christine Buchel
Adoption Coordinator
Adoption & Field Services
Department of Community Services
and Corrections
Winnipeg, Manitoba

Ontario

Joan Webber
Adoptions Officer
Toronto, Ontario

Ralph Garber
Dean
University of Toronto
Toronto, Ontario

Tony Deny
Director of Adoptions
Metro CAS
Toronto, Ontario

Edith Canter
Adoptions Worker
Metro CAS
Toronto, Ontario

Michael Blugerman
Children's Resource and
Consultation Centre of Ont.
Toronto, Ontario

Margaret Litman
International Adoptions Officer
Health and Welfare Canada
Ottawa, Ontario

Derek White
Head, Adoption Desk
Health and Welfare Canada
Ottawa, Ontario

Quebec

Anne Bernard
Secretary of Adoption
Montreal, Quebec

Nova Scotia

Susan Drysdale
Coordinator, Children in Care
Family and Children Services
Halifax, Nova Scotia

Washington, D.C.

Elaine Schwartz
Children's Bureau
Department of Human Services
Washington, D.C.

APPENDIX G

LIST OF WRITTEN SUBMISSIONS SENT TO THE PRIVATE ADOPTION CONSULTATION COMMITTEE

LIST OF BRIEFS/LETTERS RECEIVED WHICH WERE NOT PRESENTED AT HEARINGS

1. ADOPTION SERVICES, ASSCH, Anne Scullv, Edmonton
2. ALBERTA SOCIAL SERVICES & COMMUNITY HEALTH, Wainwright Regional Office, Mr. Len Heinemann, District Office Manager
3. KAREN BEAGRIE, Calgary
4. CHRIS AND ROBERT BOULOS
5. WENDY AND JULIAN CAMPBELL, Edmonton
6. SANDI AND ERNIE CAMPEAU, Fort Kent
7. BERNIE DESROSIERS, Grande Prairie
8. MARIANNE DUPRES
9. MRS. SHAUN DYKE, Stony Plain
10. MR. RAY ENSMINGER, Edmonton
11. MR. JOEY FARNSWORTH, Grande Prairie
12. MR. AND MRS. CLIVE FOOT, Edmonton
13. GRACE HOSPITAL, Calgary, David Luginbuhl, Executive Director
14. LIBBY GRAHAM
15. HIGH RIVER, TOWN OF, Family and Community Support Services, Robert Gladish, Director
16. MR. AND MRS. HOEKSTRA, Sherwood Park
17. LARRY HURD, Calgary
18. MARGARET JOHNSON, Morinville
19. MARION AND ERIC KOKKO, Lethbridge
20. VALERIE LAND
21. DR. CHERYL LEE, Calgary.
22. LESSER SLAVE LAKE INDIAN REGIONAL COUNCIL, Debbie Brick, Director, Social Development
23. PEGGY AND JOHN MARTIN, Medley

24. EVA McDOUGALL, Didsbury

25. GERALD MELCHIN, Calgary

26. METIS ASSOCIATION OF ALBERTA, Zone IV Regional Council, Edmonton, Ben Courtrille, Vice-President

27. SHARON MOORE

28. J. E. OTHEN, Calgary

29. RED DEER REGIONAL HOSPITAL CENTRE, G. W. Birbeck, Senior Vice President

30. LAURA AND NEIL ROGERS, Calgary

31. IAN SANDERSON, Edmonton

32. TOM AND MICHELE SHOCKLEFORD, Lethbridge

33. BRENDA SLACK, Calgary

34. MICHAEL TODD, Magrath

35. PATRICK WINDLE, R+ Industries Alberta Ltd., President

36. ALBERTA MEDICAL ASSOCIATION, H. E. Harper, Assistant Executive Director, Edmonton

37. IAN C. SCHOFIELD, Calgary